



Sexual Misconduct Policy

Dissemination of Sexual Violence Definitions

In accordance with Campbellsville University Sexual Misconduct Policy §11.1.a to §11.1.c, the University shall provide education programs to promote the awareness of rape, acquaintance rape, domestic violence, sexual assault, sexual harassment, and stalking, which shall include:

- a. A statement that the University prohibits the offenses of domestic violence, dating violence, sexual assault, sexual harassment, and stalking;
- b. The definition of domestic violence, dating violence, sexual assault and stalking in the state of Kentucky;
- c. The definition of consent, in reference to sexual activity, in the state of Kentucky;

Campbellsville University prohibits sexual misconduct, including domestic violence, sexual assault, sexual harassment, and stalking.

The following definitions are those found in Campbellsville University's Sexual Misconduct Policy as well as how each is defined specifically within the state of KY.

1. **Domestic Violence** – *A felony or misdemeanor crime of violence 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 jurisdiction in which the crime of violence occurred, 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 jurisdiction in which the crime of violence occurred.* The use of the word "victim" in this policy stems from the use of that word in 34 CFR §668.46 and is not intended to infer the guilt or innocence of any party with respect to any crime or any violation of this policy.
 - A. **Defined by the state of Kentucky:** *"Domestic violence and abuse" means physical injury, serious physical injury, stalking, sexual abuse, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault between family members or members of an unmarried couple (KRS 403.715 to 403.785)*
2. **Dating Violence** – *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 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. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

- A. **Defined by the state of Kentucky:** *"Dating violence and abuse" means physical injury, serious physical injury, stalking, sexual assault, strangulation, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault occurring between persons who are or have been in a dating **relationship** (KRS 456.010)*
- 3. **Sexual Assault** – *An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.*
 - A. **Defined by the state of Kentucky:** *"Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020 (KRS 456.010).*
 - i. **Rape**
 - a. *(1) A person is guilty of rape in the first degree when: (a) He engages in sexual intercourse with another person by forcible compulsion; or (b) He engages in sexual intercourse with another person who is incapable of consent because he: 1. Is physically helpless; or 2. Is less than twelve (12) years old (KRS 510.040) .*
 - b. *(1) A person is guilty of rape in the second degree when: (a) Being eighteen (18) years old or more, he or she engages in sexual intercourse with another person less than fourteen (14) years old; or (b) He or she engages in sexual intercourse with another person who is mentally incapacitated or who is incapable of consent because he or she is an individual with an intellectual disability (KRS 510.050).*
 - c. *A person is guilty of rape in the third degree when: (a) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old; (b) Being at least ten (10) years older than a person who is sixteen (16) or seventeen (17) years old at the time of sexual intercourse, he or she engages in sexual intercourse with the person; (c) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; (d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; or (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of*

Juvenile Justice, detention facility, or contracting entity, to sexual intercourse (KRS 510.060).

ii. **Sodomy**

- a. *(1) A person is guilty of sodomy in the first degree when: (a) He engages in deviate sexual intercourse with another person by forcible compulsion; or (b) He engages in deviate sexual intercourse with another person who is incapable of consent because he: 1. Is physically helpless; or 2. Is less than twelve (12) years old (KRS 510.070).*
- b. *(1) A person is guilty of sodomy in the second degree when: (a) Being eighteen (18) years old or more, he or she engages in deviate sexual intercourse with another person less than fourteen (14) years old; or (b) He or she engages in deviate sexual intercourse with another person who is mentally incapacitated or who is incapable of consent because he or she is an individual with an intellectual disability (KRS 510.080).*

iii. **Sexual Abuse**

- a. *(1) A person is guilty of sexual abuse in the first degree when: (a) He or she subjects another person to sexual contact by forcible compulsion; or (b) He or she subjects another person to sexual contact who is incapable of consent because he or she: 1. Is physically helpless; 2. Is less than twelve (12) years old; 3. Is mentally incapacitated; or 4. Is an individual with an intellectual disability; or (c) Being twenty-one (21) years old or more, he or she: 1. Subjects another person who is less than sixteen (16) years old to sexual contact; 2. Engages in masturbation in the presence of another person who is less than sixteen (16) years old and knows or has reason to know the other person is present; or 3. Engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate; or (d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she, regardless of his or her age, subjects a minor who is less than eighteen (18) years old, with whom he or she comes into contact as a result of that position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate (KRS 510.110)*
- b. *(1) A person is guilty of sexual abuse in the second degree when: (a) He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; or (b) Being a jailer, or an employee, contractor,*

vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who is at least eighteen (18) years old and who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual contact. (2) In any prosecution under subsection (1)(a) of this section, it is a defense that: (a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and (b) The other person was at least fourteen (14) years old; and (c) The actor was less than five (5) years older than the other person (KRS 510.120)

- c. (1) A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent. (2) In any prosecution under this section, it is a defense that: (a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and (b) The other person was at least fourteen (14) years old; and (c) The actor was less than eighteen (18) years old (KRS 510.130).
- d. (1) A person is guilty of sodomy in the third degree when: (a) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than sixteen (16) years old; (b) Being at least ten (10) years older than a person who is sixteen (16) or seventeen (17) years old at the time of deviate sexual intercourse, he or she engages in deviate sexual intercourse with the person; (c) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; (d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than eighteen (18) years old with whom he or she comes into contact as a result of that position; or (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to deviate sexual intercourse (KRS 510.090)

iv. **Incest**

- a. (1) A person is guilty of incest when he or she has sexual intercourse or deviate sexual intercourse, as defined in KRS 510.010, with a person whom he or she knows to be an ancestor, descendant, uncle, aunt, brother, or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, relationship of stepparent and stepchild, and relationship of step-grandparent and step-grandchild. (2) (a) Incest is a Class C felony if the act is committed by consenting adults. (b) Incest is a Class B felony if committed: 1. By forcible compulsion as defined in KRS 510.010(2); or 2. On a victim who is: a. Less than eighteen (18) years of age; or b. Incapable of consent because he or she is physically helpless or mentally incapacitated. (c) Incest is a Class A felony if: 1. Committed on a victim less than twelve (12) years of age; or 2. The victim receives serious physical injury (KRS 530.020)

4. **Stalking** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others or (b) suffer substantial emotional distress. 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.

- A. **Defined by the state of Kentucky:** "Stalking" refers to conduct directed at a specific person or persons; 2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and 3. Which serves no legitimate purpose. (b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress (KRS 508.140 or 508.150).

5. **Consent** - Verbal statements or non-verbal actions, which a reasonable person would understand to mean a voluntary agreement to engage in sexual activity. Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent.

- A. **Defined by the state of Kentucky:** (1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim. (2) Lack of consent results from: (a) Forcible compulsion; (b) Incapacity to consent; or (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct. (3) A person is deemed incapable of consent when he or she is: (a) Less than sixteen (16) years old; (b) Sixteen (16) or seventeen (17) years old and the actor is at least ten (10) years older than the victim at the time of the sexual act; (c) An individual unable to communicate consent or lack of

consent, or unable to understand the nature of the act or its consequences, due to an intellectual disability or a mental illness; (d) Mentally incapacitated; (e) Physically helpless; or (f) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency. (4) The provisions of subsection (3)(f) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties (KRS 510.020).