

## **Title IX: What is it?**

Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs and activities that receive federal financial assistance. The College is bound by, and supports, all applicable laws. The Title IX of the Higher Education Act of 1972 ensures the College does not discriminate on the basis of sex in its education programs and the Campus Sexual Violence Elimination Act (SAVE) of 2013 and Violence Against Women Reauthorization Act (VAWA) ensures that colleges and universities implement policies and programs to prevent sexual assault, dating violence, domestic violence, and stalking.

Laws and the requirements of this policy affect all relationships within the College community, including, but not limited to:

- Student relationships with other students
- Instructor and staff conduct toward students
- Student conduct toward instructors and staff
- Conduct between members of different genders
- Conduct between members of the same gender
- Conduct toward persons outside the BTC community may be considered a violation of this policy if the College concludes there is a sufficient connection between the conduct and the College to warrant the College taking action
- Conduct between campus visitors and students or employees

### **On-campus violations**

Any incident which occurs within the geographic confines of the college, including its land, roads, buildings, leased premises, the property, facilities and leased premises of organizations affiliated with the college (this would include classes or events held at other sites).

### **Off campus events**

Events that occur off campus can impact the learning environment while a student is attending BTC, therefore the college will also consider the effects of off-campus misconduct when evaluating whether there is a hostile environment on-campus or in an off-campus education program or activity. Students should be aware that off campus violations that have a downstream effect on the college or its students are subject to disciplinary sanctions. As examples, sexual misconduct and harassment are within the college's interest when the behavior:

- involves conduct directed at or by a college student or other member of the college community (e.g. outside employment)
- Occurs during college-sponsored events (e.g. field trips, social or educational functions, college-related travel, student recruitment activities, internships and service learning experiences)
- Occurs during the events of organizations affiliated with the university, including the events of student organizations
- Poses a disruption or threat to the college community

## Defining Terms & Behaviors

**Consent:** Informed, knowing and voluntary participation in any desired sexual activity. Sexual intimacy requires that all participants consent, freely, voluntarily, without coercion, to the activity.

Consent must be present throughout the sexual activity—at any time, a participant can communicate that he or she no longer consents to continuing the activity. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, the participants should stop the activity until the confusion is clearly resolved. A person who is incapacitated cannot give consent to engage in sexual activity. Incapacitation can result from alcohol or other drug use, unconsciousness, blackout, mental disability, sleep, involuntary physical restraint, or from being drugged. A respondent cannot defend a violation of this policy by claiming that he or she was impaired from alcohol or drug use and unable to tell whether the complainant was incapacitated. Wisconsin law also states the following individuals are not able to provide consent:

- Individuals who are asleep or unconscious
- Individuals who are unable to communicate consent because of a mental or physical condition
- Generally minors under the age of 16

BTC may conclude that an instance of sexual contact was sexual assault, because it was without another person's consent, even if that conduct would not meet the standard of a criminal sexual assault.

**Coercion:** An unreasonable amount of pressure, harassment, threats, intimidation. When someone makes clear that he or she does not want to engage in sexual conduct, wants it to stop, or does not wish to go past a certain point of sexual interaction, continued pressure beyond that point is coercive.

**Retaliation:** Directly or indirect pressure against a person who has, in good faith, filed, supported, or participated in an investigation of a complaint of sexual misconduct, as defined above, is prohibited. Retaliation includes, but is not limited to, ostracizing the person, pressuring the person to drop or not support the complaint, or to provide false or misleading information, or engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment. This does apply to any third-party that acts on behalf of a respondent.

**Hate crime:** The victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

**Bystander intervention:** Responsibility of all members of the college community to help ensure the safety of all members within the college. The intervention may be as simple as providing words of support to another student or a faculty or staff member. It may mean more involved behaviors to let people know that action will be taken.

**Sexual misconduct:** Encompassing any non-consensual behavior of a sexual nature that is committed by force or intimidation, including sexual assault, sexual exploitation, sexual harassment, stalking, relationship violence (domestic and dating), hostile environment. Sexual misconduct can occur between members of the same or different gender and can also occur while individuals are fully clothed.

**Sexual assault:** Defined very broadly by criminal law. It includes a wide variety of conduct from sexual intercourse to sexual contact, without the consent of the other person. Criminal sexual contact can be as limited as a single instance of touching a woman's breast, buttocks, or genital area, or touching a man's buttocks or genital area, without that person's consent, even if the person touched is fully clothed. Other examples of sexual assault include rape, acquaintance rape, forcible fondling, sodomy (oral or anal intercourse), and sexual penetration with an object

**Sexual exploitation:** Involves taking non-consensual sexual advantage of another person, even though the behavior might not constitute one of the other sexual misconduct offenses. Examples can include, but are not limited to the following behaviors:

- Distribution or publication of sexual or intimate information about another person without consent, including by means of social media
- Electronic recording, photographing, or transmitting sexual or intimate utterances, sounds, or images without knowledge and consent of all parties
- Engaging in indecent exposure
- Voyeurism - Voyeurism involves both secretive observation of another's sexual activity and secretive observation of another for personal sexual pleasure
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex)

**Sexual Harassment:** Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that has the effect of unreasonably interfering with, denying or limiting someone's ability to participate in, or benefit from the College's educational program and/or activities and is based on power differentials. This policy prohibits conduct that would violate Federal and State laws. Sexual harassment includes:

- Unwelcome sexual advances or requests for sexual favors
- Unwelcome verbal or physical conduct of a sexual nature
- Making submission to, or rejection of, such conduct a factor in academic or employment decisions affecting the student or employee
- Permitting such conduct to unreasonably interfere with a student's academic performance or an employee's work performance
- Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature or submission to or rejection of such conduct results in adverse educational or employment action (Quid pro quo)
- Adverse educational or employment action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct (retaliatory harassment)

#### **Examples of Sexual Harassment**

- An instructor insists that a student have sex with him or her in exchange for a good grade. This is harassment regardless of whether or not the student submits to the request
- A student repeatedly sends sexually oriented jokes through social media, even when asked to stop, causing one recipient to avoid the sender
- Explicit sexual pictures are displayed in an instructor's office, on a bulletin board in a lab or on a computer monitor in a public space
- An instructor engages students in discussions about their past sexual experiences, yet the conversation is not in any way relevant to the subject matter of the class. An instructor probes for explicit details and demands that students answer although they are clearly uncomfortable and hesitant

**Stalking:** Harassment, intimidation, surveillance or a similar course of repeated conduct that causes a reasonable person to fear for his or her safety or suffer substantial emotional distress, serious physical injury, or death. Stalking includes conduct directed at the victim's immediate family, a spouse, or intimate partner. Stalking can also be a form of sexual harassment and/or it can involve a total stranger.

**Relationship Violence:** Conduct in which the parties involved know each other or had a prior relationship and may include acquaintance rape, dating violence and domestic violence.

**Domestic Violence:** Violence committed by a current or former spouse or intimate partner, current or former cohabitant, person with whom a victim shares a child in common, person similarly situated to a spouse under domestic or family violence law, anyone else protected under domestic or family violence law

**Dating violence:** Inappropriate conduct when the parties involved are, or have been, in a romantic or intimate relationship and does not include a causal relationship between two individuals in a business or social context. Whether a relationship exists will depend on the length, type, and frequency of interaction.

**Hostile Environment:** Any situation in which there is harassing conduct that is sufficiently severe, persistent or pervasive such that it alters the conditions of employment or limits, interferes with or denies educational benefits or opportunities, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint. The determination of whether an environment is "hostile" must be based on all of the circumstances listed here. These circumstances may include, but are not limited to:

- The frequency of the conduct
- The nature and severity of the conduct
- Whether the conduct was physically threatening
- Whether the conduct was humiliating
- The effect of the conduct on the alleged victim's mental or emotional state
- Whether the conduct was directed at more than one person
- Whether the conduct arose in the context of other discriminatory conduct
- Whether the conduct unreasonably interfered with the alleged victim's educational or work performance

**What if something happened or I think something happened?**

Students, staff and/or witnesses are encouraged to direct Title IX questions, concerns, and complaints to the Title IX Coordinator or the appropriate college employee available. If a Title IX Coordinator is alleged to be the person who engaged in discrimination or sexual misconduct, the report may be filed with another of the named officers or with the office of the Vice President of Student Services (Room 2102 – Central Campus).

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Complaints can also be filed with the Office of Civil Rights (OCR). The OCR encourages complainants to follow the College's process prior to filing a complaint with OCR; however, it is not required. Generally, complaints must be filed with OCR within 180 days of the alleged event. Complaints can be filed with OCR via email at [ocr@ed.gov](mailto:ocr@ed.gov) and by completing an electronic complaint form at <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.