

THE IMPORTANCE OF

CONSENT

Communication, honesty and respect make sexual relationships better. Asking for and obtaining consent shows respect for yourself and your partner. It eliminates the entitlement that one partner might feel over the other. Neither your body nor your sexuality belongs to someone else.



WHAT IS CONSENT?

- Consent is an intelligent, knowing, voluntary, sober, enthusiastic, creative, wanted, informed, mutual, honest, and verbal agreement.
- Consent is an active agreement; consent cannot be coerced. Consent is legally required.
- Consent shall not be deemed or construed to mean the failure by the victim to offer physical resistance to the offender.
- Consent is a process: if you want to move to the next level of sexual intimacy, ask.
- Consent is never implied and cannot be assumed, even in the context of a relationship. Just because you are in a relationship does not mean that you have permission to have sex with your partner.
- A person who is incapacitated by alcohol or other drugs cannot legally give consent. If you're too drunk to make decisions and communicate with your partner, you're too drunk to consent.
- The absence of a "no" doesn't mean "yes."
- Both people must be involved in the decision to have sex.

BEFORE YOU HAVE SEX ASK YOURSELF...

- Have I expressed what I want?
- Do I know what my partner wants?
- Am I certain that consent has been given?
- Is my potential partner sober enough to decide whether or not to have sex?
- Am I sober enough to know that I've correctly gauged consent?

GAUGING CONSENT

RED - SIGNS YOU SHOULD STOP

- You are too intoxicated to gauge or give consent.
- Your partner is asleep or passed out.
- You hope your partner will say nothing and go with the flow.
- You intend to have sex by any means necessary.

YELLOW - SIGNS YOU SHOULD PAUSE & TALK

- You are not sure what the other person wants.
- You feel like you are getting mixed signals.
- You have not talked about what you want to do.
- You assume that you will do the same thing as before.
- Your partner stops or is not responsive.

GREEN - KEEP COMMUNICATING

- Partners come to a mutual decision about how far to go.
- Partners clearly express their comfort with the situation.
- You feel comfortable and safe stopping at any time.
- Partners are excited!

Source: American College Health Association, Revised 8/2012

CONSENT, COERCION, AND INCAPACITY UNDER USF POLICY

CONSENT means an informed, knowing, and voluntary agreement to engage in sexual activity. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity.

Silence or an absence of resistance alone, without actions evidencing permission, does not imply consent.

- (a) To give consent, a person must be of legal age.
- (b) Someone who is incapacitated cannot consent.
- (c) Assent does not constitute consent if obtained through coercion or from an individual whom the alleged offender knows or reasonably should know is incapacitated.
- (d) The responsibility of obtaining consent rests with the person initiating sexual activity.
- (e) Use of alcohol or drugs does not diminish one's responsibility to obtain consent.
- (f) Consent to engage in sexual activity may be withdrawn at any time. Once withdrawal of consent has been expressed, the sexual activity must cease.
- (g) Consent is automatically withdrawn by a person who is no longer capable of giving consent.
- (h) A current or previous consensual dating or sexual relationship between the parties does not, in and of itself, imply consent or preclude a finding of responsibility.
- (i) Past consent to sexual activity does not imply ongoing future consent to sexual activity with that person.
- (j) Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person.
- (k) There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used.

COERCION is the use of express or implied threats, intimidation, physical force, or duress which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

INCAPACITATION. An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Someone who has consumed alcohol or intoxicants is not necessarily incapacitated. For instance, individuals who are asleep or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.