



## **Sexual Assault & Relationship Violence Policy - Employees**

rev. September 2024

### **I. Scope and Application**

Johnson & Wales University (JWU) prohibits sexual assault and relationship violence, which may include dating violence, domestic violence, stalking, and sexual exploitation. These offenses constitute violations of university policy, including the Prohibited Discrimination and Harassment (including Sexual Harassment) Policy, the Policy Governing Reporting of Misconduct and Whistleblowing, and the Student Code of Conduct. These offenses can also constitute violations of state and federal laws and may constitute a violation of the university's Title IX Policy and Procedures. Visit "Policies and Resources" at [www.jwu.edu/compliance](http://www.jwu.edu/compliance).

The university provides proceedings and resources for community members affected by sexual assault and relationship violence (see [Getting Help](#)), and offers programming designed to educate the community and prevent the occurrence of such offenses (see [Education and Prevention](#)).

### **II. Definitions**

A. **Dating violence** means 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 threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

B. **Domestic violence** means crimes 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 the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; 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 jurisdiction in which the crime of violence occurred.

C. **Sexual Assault** means any sexual act directed against another person, by force, threat of force, coercion or without consent, including instances where the person is incapable of giving consent. Sexual assault includes rape, fondling, incest and statutory rape.

*Fondling* means the touching (with a hand or any other part of the body) of another person's clothed or unclothed sex organs, breasts, groin, buttocks or anus for the purpose of sexual arousal,

sexual gratification or abuse, without consent of the person, including instances where the person is incapable of giving consent. Fondling also includes being forced to touch (with a hand or any other part of the body) another person's clothed or unclothed sex organs, breasts, groin, buttocks or anus, without consent, including instances where the person is incapable of giving consent.

*Consent* means conduct that signifies through words or behaviors that the parties have indicated agreement to engage in sexual activity.

- Past consent does not imply future consent.
- Silence or absence of resistance, by itself, may 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 force invalidates consent.

*Incapable of giving consent* means that because of the person's age or temporary or permanent mental incapacity the person cannot give intelligent, knowing, and voluntary consent. Where it is determined that complainant was incapable of giving intelligent, knowing, and voluntary consent, the respondent will be held responsible only if it is determined that the respondent either knew or a reasonable person in the same position would have known that the complainant was incapable of giving intelligent, knowing, and voluntary consent.

*Incest* means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

*Coercion* means express or implied threats of any harm that would place a reasonable individual in fear of immediate or future harm and that is employed to make someone engage in sexual activity.

*Force* means the actual use or threat of physical violence that is employed to make someone engage in sexual acts.

*Rape* means the 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 consent, including instances where the person is incapable of giving consent.

*Statutory rape* means sexual intercourse with a person who is under the statutory age of consent.

D. **Stalking** means a course of conduct directed at a specific person that would cause a reasonable person to

- fear for the person's safety or the safety of others;
- or 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.

*Reasonable person* means a reasonable person under similar circumstances and with similar identities to the alleged victim.

*Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- E. **Sexual Exploitation** means taking sexual advantage of another individual's nudity or sexuality without consent and includes, but is not limited to,
- causing, or attempting to cause, the incapacitation of another person in order to make that person vulnerable to sexual acts;
  - recording or photographing of private sexual activity and/or an individual's intimate parts (including breasts, buttocks, genitalia, or groin);
  - dissemination, streaming or posting of recordings, photos or other images of an individual's sexual acts and/or intimate parts (including breasts, buttocks, genitalia, or groin);
  - voyeurism (watching or taking pictures, videos or audio recordings of another person engaging in sexual acts);
  - allowing third parties to observe private sexual acts;
  - knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection or virus; and/or
  - exposing one's genitals to another individual.

### III. Policy

If there is reason to believe that Johnson & Wales University's rules prohibiting sexual assault and relationship violence have been violated, either on or off campus, the administration will review and, when appropriate, will pursue disciplinary action through the university's Title IX Policy and Procedures, [Conduct Review Process](#), Human Resources & Payroll, and/or through any other available proceedings. When an individual accused of this behavior is not a member of the university community, the university will determine the appropriate response depending upon the nature of the individual's relationship with the university and other relevant factors.

In considering these offenses, the university will, if required by law, refer to applicable state law.

#### **Education and Prevention**

JWU takes a proactive stance to educate its community regarding sex-based harassment and methods of prevention, including addressing societal or environmental causes, alcohol use, awareness-raising, bystander behavior, definition of consent, healthy sexuality and relationships, risk reduction, and self-defense.

JWU's programs may be in-person or online. Programs may include a mix of guest speakers, university staff/faculty members, externally-created programs, and university-created programs, in JWU's sole discretion.

For students, education about sex-based harassment begins at new student orientation, where incoming students are invited to participate in educational sessions addressing the university's stance against sex-based harassment.

Appropriate staff members are trained to handle issues of sex-based harassment and participate in programming designed to help students understand university expectations and policy (including where to obtain resources and where to report violations); the intersection between alcohol and sex-based harassment; and ways to reduce the risk of, as well as prevent, sex-based harassment. This programming promotes safety and introduces options to decrease perpetration, increase reporting, and empower individuals to take safe and comfortable bystander action. Students are also encouraged to learn about safe and effective forms of bystander intervention to prevent harm or intervene when there is a risk of sexual assault, dating violence, domestic violence, or stalking. Bystander intervention means safe and positive options an individual may carry out that proactively promote safe and respectful interactions before the precursors to harm occur. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. The university addresses bystander behavior by participating in bystander intervention programs.

Prevention and education efforts continue throughout the year and are supported by multiple departments, such as Student Engagement (including student clubs and organizations and fraternities and sororities), Residential Life, Counseling Services, and Athletics. This programming targets some combination of the following: addressing societal or environmental causes, alcohol use, awareness-raising, bystander behavior, definition of consent, healthy sexuality and relationships, risk reduction, and self-defense. The university provides education through its "Consent Initiative," which informs students about the university's expectations and policy (including where to obtain resources and where to report violations); the intersection between alcohol and sex-based harassment; and ways to reduce the risk of, as well as prevent, sex-based harassment.

Literature addressing issues of sex-based harassment is available from multiple departments including Athletics, Campus Safety & Security, Community Standards and Conduct, Counseling Services, Equity & Compliance Services, the Bridge for Diversity, Equity & Social Justice, Health Services, Residential Life, and Student Engagement.

Many of the educational initiatives offered to students are open to employees, and employees have the opportunity and are encouraged to participate in a variety of educational programs. In addition, employees are offered programming on the Prohibited Discrimination and Harassment (including Sexual Harassment) Policy, the Title IX Policy and Procedures, and this Policy.

For information regarding sexual assault and relationship violence awareness and prevention programming, contact the [Title IX Coordinator](#) or the directors of [the Bridge for Diversity, Equity & Social Justice](#). Upcoming programs can also be found on [jwuLink](#) and the student calendar.

### **Steps to Follow If an Offense Occurs**

If you believe you are the victim of sexual assault or relationship violence (including dating violence, domestic violence, stalking or sexual exploitation), you are encouraged to take the following steps:

1. Seek a safe place and call the police or CS&S. Information about reporting is found below.
2. Seek immediate medical attention. A medical examination is important to diagnose and treat any injuries (including internal injuries) or infections which may have resulted from the incident. Getting a medical examination does not mean that you are required to report the incident to the police or the university; however, the hospital may retain forensic examination information as part of the medical record and may contact a law enforcement agency to provide the agency with the evidence kit. The forensic examination information may be helpful if you choose to report to police or the university or otherwise seek to enforce your rights.
3. Try to avoid the following pending a medical examination:
  - a. Washing anything (including hands, mouth, and face) or showering;
  - b. Going to the bathroom, brushing teeth, eating, drinking, douching, or changing clothes.
4. It is recommended to bring an extra set of clothes to the hospital.

Time sensitive steps: Some actions are more effective or only may be taken within a few days after an incident of sexual harassment. You may wish to consult with medical personnel quickly regarding these items:

  - a. Preventative treatments for pregnancy and sexually transmitted infections
  - b. Evidence collection
  - c. Toxicology testing if there are signs that drugs or alcohol may have facilitated the incident of sexual misconduct.
5. Consider steps to preserve and record physical and other evidence, which may be important to enforce rights or obtain remedies (including pressing criminal charges or seeking a civil protective order).
  - a. Details that may be important to identify the allegedly responsible individual include the perpetrator's name (if known) and a description of the perpetrator (including clothing worn and a physical description of the perpetrator), and the details of the incident of sexual harassment (including, for example, the location, possible witnesses, etc.).
  - b. If you do change or have access to other materials like sheets or blankets present during the assault/violence, those materials can be brought to the hospital or given to law enforcement for evidence collection. You should use a paper bag, not a plastic bag, if you choose to

transport any of these materials on your own. Note that this is by no means an exhaustive summary regarding evidence preservation, which is outside the scope of this Policy.

- c. You may also consider preserving electronic evidence and other relevant information, such as communications from the perpetrator (including email, text messages, mail, instant messaging, etc.).
6. Seek confidential counseling services. You can obtain confidential counseling assistance whether or not you file a report.
7. Seek assistance regarding obtaining interim supportive or protective measures at the university, including no contact orders and changes to university academic, living, student financial aid, transportation, visa and immigration, and working situations, regardless of whether you choose to report the sexual misconduct. The Title IX Coordinator or CS&S will provide you with written information about university and community resources for changing situations or addressing needs.
8. Create a safety plan. The Title IX Coordinator, CS&S, and other university administrators are able to assist you with creating such a plan. Community organizations may be able to assist as well.

You may seek a protective order or similar order from a court. Please note that the local authorities are responsible for the enforcement of these items and not CS&S, but CS&S will provide assistance.

### **Reporting Offenses to the University**

**Consider your reporting options.** Your options include

- reporting the offense to law enforcement authorities by dialing 911 or contacting the appropriate police at the numbers listed in [Getting Help](#). Campus authorities will assist you with notifying law enforcement authorities, if desired;
- reporting the offense to CS&S (see [Getting Help](#) for your campus information);
- reporting the offense to a Residential Life staff member (such as your RA or Area Coordinator);
- reporting the offense to the university's [Title IX coordinator](#); and/or
- reporting the offense to any of the other organizations or departments listed in [Getting Help](#).

If you wish to report confidentially or are uncertain about your next step you may call Counseling Services (see [Getting Help](#) for your campus information).

Johnson & Wales University strongly urges students to report criminal offenses to local police and CS&S so the university can take appropriate measures to provide help to the complainant and prevent future crimes.

However, you have the right not to report the matter.

Johnson & Wales University strives to be supportive and accommodating for all victims of sexual assault and relationship violence. University representatives will make every effort to help in these ways:

1. We will meet with you privately at a place of your choice on campus to take a statement, explain your options, and provide you with a written list of rights and resources.
2. We will treat information that you share with discretion.
3. CONFIDENTIALITY: We will do our best to honor your request to maintain confidentiality, provided your request does not interfere with our obligation to provide a safe, non-discriminatory environment for all students.
  - The university will evaluate a request to maintain confidentiality and consider several factors in evaluating such a request:
    1. The totality of known circumstances
    2. The seriousness of the offense
    3. Whether the prohibited conduct involved physical violence or use of weapons
    4. Whether the report reveals a pattern of prohibited conduct
    5. Whether the respondent has a history of arrests or is the subject of prior reports indicating a history of violence
    6. Whether multiple respondents were involved
    7. Complainant's age
    8. Any other available and relevant information and evidence
  - The university's crime log will not include identifying information about the complainant to the extent permissible by law.
  - Please be advised that if we honor a request to maintain confidentiality, our ability to meaningfully investigate the incident and pursue disciplinary action against the respondent may be limited.
  - Any accommodations or protective measures provided to you will be kept confidential, to the extent that maintaining such confidentiality will not impair the ability of the university to provide the accommodation or protective measures.
  - If we cannot honor your request to maintain confidentiality, we will inform you and, to the extent possible, only share information with people responsible for handling our response to the incident.
4. We will not prejudge you.
5. We will treat you and your particular situation with courtesy, sensitivity, dignity, understanding, and professionalism.
6. If you feel more comfortable talking with either a counselor or representative of a specific gender, we will do our best to accommodate your request.
7. We will assist you in arranging for any hospital treatment or medical needs.

8. We can assist you in privately contacting local law enforcement officials, counseling, CS&S, advising and other available resources, both on campus and in the community as set forth in [Getting Help](#).
9. We will fully investigate your report with respect and discretion.
10. We will continue to be available for you — to answer your questions, explain the systems and processes involved, and be willing listeners.
11. We will consider your report seriously, without bias based on a protected category.
12. We will provide written notification of rights and options, including interim and protective measures.

### **Getting Help**

After a sexual assault or an incident of dating violence, domestic violence, stalking, sexual exploitation and/or retaliation, there are many options. Understanding and choosing between these options can feel confusing and overwhelming. You are not alone.

The university provides a non-exhaustive list of organizations and departments by campus that offer or arrange for immediate support and response, including arrangements for emergency services, if needed; transportation to medical resources; contact with local authorities; information regarding criminal and civil proceedings and/or the university’s Conduct Review Process or Human Resources procedures, as appropriate; advocacy services; referrals/advice about university and community counseling services; and assistance with personal safety concerns.

Many of these resources are available to respondents as well. Community members are encouraged to seek assistance and locate resources that are right for them. Resources are listed by campus:

- Providence
- Charlotte

### **GETTING HELP- PROVIDENCE CAMPUS**

#### **Community Help**

#### **Medical**

*Please note that victims of sexual assault may request a specifically trained sexual assault nurse examiner at each of the following hospitals:*

**Women & Infants** 401-274-1100  
101 Dudley St., Providence, R.I.

**Rhode Island Hospital** 401-444-4000  
539 Eddy St., Providence, R.I.



**Kent Hospital** 401-737-7000  
455 Tollgate Road, Warwick, R.I.

**Roger Williams Medical Center** 401-456-2000  
825 Chalkstone Ave., Providence, R.I.

**Morton Hospital** 508-828-7000  
88 Washington St, Taunton, MA

**Sturdy Memorial Hospital** 508-828-7000  
211 Park St, Attleboro, MA

**You may reach these medical providers by bus ([RIPTA/MBTA](#)) or rideshare services. The university does not pay for transportation.**

#### **Police**

**Emergency 911**  
Providence Police Department\* 401-272-3121  
Cranston Police Department (non-emergency line)\* 401-942-2211  
Rehoboth Police Department (non-emergency line) 508-252-3722

*\*These police departments have civilian Law Enforcement Advocates (LEA) available to assist those reporting sexual assault, dating/domestic violence, or stalking.*

#### **Community**

RI Victims of Crime Helpline

- 1-800-494-8100 (24-hour)

[Day One](#) provides services to help and inform victims of sexual violence, including assistance when moving through the prosecution process, if desired, and counseling services for sexual assault, dating and domestic violence and stalking.

- 401-421-4100 (Monday through Friday, 8 a.m.–5 p.m.)

[Sojourner House](#) provides support, advocacy, shelter, housing prevention and education programs relating to domestic and sexual violence, and stalking.

- 401-765-3232 (24-hour)

#### [Mass. Safelink](#)

- 1-877-785-2020 (24-hour)

Dating and domestic violence services (including criminal justice and protective order advocacy, emergency shelter, transitional housing, safety plans, counseling, education and/or policy) are available at the following member agencies of the [RI Coalition Against Domestic Violence](#):

- [Crossroads Rhode Island Domestic Violence Program](#): 401-861-2760 (24-hour)

- [Elizabeth Buffum Chace Center](#): 401-738-1700 (24-hour)
- [Blackstone Valley Advocacy Center](#): 401-723-3057
- [Domestic Violence Resource Center of South County](#): 401-782-3995
- [Women’s Resource Center of Newport & Bristol Counties](#): 401-846-5263
- [Sisters Overcoming Abusive Relationships](#) (SOAR), a survivor task force: 401-467-9940

[Violence Recovery Program \(VRP\)](#) at Fenway Community Health (Boston, Mass.) provides counseling, support groups, advocacy and referral services to lesbian, gay, bisexual and transgender victims of sexual assault, dating/domestic violence and stalking.

- 617-927-6250 (Monday through Friday, 8 a.m.–5 p.m.)

Information regarding how to obtain a temporary restraining order in the State of Rhode Island may be found [online](#) and by visiting or calling the Restraining Order Office for Providence County, Garrahy Judicial Complex, 1 Dorrance St., second floor, Providence, RI, 401-458-3372. After business hours, on weekends or during holidays emergency restraining orders can be obtained at your local police department.

#### [National Sexual Assault Hotline](#)

- 1-800-656-HOPE (4673) (24-hour)

#### [National Domestic Violence Hotline](#)

- 1-800-799-SAFE (7233) (24-hour)

The [National Stalking Resource Center](#) provides online tools and information for victims of stalking, and links to local resources nationwide.

Text “loveis” to 77054 or 1-866-331-9474 to text with an advocate via [loveisrespect](http://www.loveisrespect.org/for-yourself/contact-us/) for support and information regarding dating violence. You can also visit <http://www.loveisrespect.org/for-yourself/contact-us/> for more information.

#### [10 to 10 Helpline](#)

The 10 to 10 Helpline is a free, anonymous, and confidential intimate partner abuse prevention helpline, serving Massachusetts adults and teens. Open 10 a.m. to 10 p.m. 365 days a year.

- 877-898-3411 / [thehelpline1010@gmail.com](mailto:thehelpline1010@gmail.com).

#### **CONFIDENTIAL On-Campus Help**

Upon receipt of a report of sexual misconduct, confidential resources will not report information shared with them to the police, Campus Safety & Security or college officials without your permission, except for extreme emergency circumstances.

*For students to obtain confidential on-campus services*

**Counseling Services**

Wales Hall, second floor, 401-598-1016

Appointments are available. In case of an emergency, the on-call counselor is available after hours by calling 1-888-222-4805 or through Campus Safety & Security (401-598-1103).

**Health Services**

Harborside Campus: 401-598-1151, Harborside Academic Center

Downcity Campus: 401-598-1104, Wales Hall, third floor

**Korina Ramsland Short, Director of Student Support & Advocacy Services**

401-598-2248

**Michael Waugh, Director of Inclusion & Belonging**

401-598-1784

*University confidential resources may provide non-identifying information to be counted for the Annual Security Report.*

***For employees to obtain confidential counseling services***

Employees may contact the university's employee assistance provider, Coastline EAP, at 401-732-9444 or 1-800-445-1195.

**NON-CONFIDENTIAL On-Campus Help**

Johnson & Wales employees who cannot guarantee confidentiality will nevertheless maintain your privacy. Any information you provide to a non-confidential resource will be kept private and used only as necessary to investigate and address a concern and/or to notify the Title IX Coordinator, who is responsible for tracking patterns of sexual misconduct and for detecting systemic issues.

**Campus Safety & Security**

264 Weybosset St., Providence, Rhode Island

401-598-1103 (24 hours a day, 7 days a week)

**Anonymous Report** to Campus Safety & Security through [Silent Witness](#) (online only)

**Title IX Coordinator / Nondiscrimination Coordinator**

Matthias Rubekeil 8 Abbott Park Place, Providence, Rhode Island, 401-598-2703

**Residential Life**

(24 hours a day in each residence hall)

Resident Assistants, Residence Director, Central Office Staff, Community Assistants, Community Director

**Vice President of Student Affairs & Dean of Students**

Friedman Center, second floor, 401-598-4853

**Community Standards & Conduct**

Friedman Center, second floor, 401-598-2885

**Human Resources**

Wales Hall. 8 Abbott Park Place, Providence, Rhode Island  
401-598-1034

Reports may also be made confidentially and anonymously by filling out an **online confidential report** via the [Equity & Compliance Services](#) webpage. You may call the JWU Reporting Hotline and leave a message by dialing 1-833-JWU-LINE (1-833-598-5463). If you want to leave an anonymous message on the JWU Reporting Hotline, please dial \*67 plus the hotline telephone number (\*67-401-383-7026) to block your caller ID before leaving your message.

Any student or employee who reports to the university pursuant to one of the above reporting options that he or she has been a victim of sexual assault, dating violence, domestic violence or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee’s rights and options under this policy and other relevant university procedures.

**GETTING HELP- CHARLOTTE CAMPUS**

**Community Help**

**Medical**

*Victims of sexual assault are encouraged to request a specially trained Sexual Assault Nurse Examiner (SANE) at the emergency department.*

**Atrium Health Carolinas Medical Center (CMC) Main**

1000 Blythe Boulevard, Charlotte, NC, 28204 704-355-2000

**Novant Health Presbyterian Medical Center**

200 Hawthorne Lane, Charlotte, NC, 28204 704-384-4000

**Police**

**EMERGENCY 911**  
Charlotte-Mecklenburg non-emergency crime reporting 704-336-7600

**Community**

[Safe Alliance](#) provides victims of sexual assault, dating/domestic violence and stalking with information, advocacy, counseling, shelter, referral and support services.

- 704-375-9900 (24-hour rape crisis line)

- 704-332-2513 (24-hour dating/domestic violence line)
- NC – Coalition Against Domestic Violence
- 1-888-232-9124

Information regarding protective orders can be obtained at the Victim Assistance Office, 720 E. 4<sup>th</sup> St., Room 204, Charlotte, N.C., at 704-336-4126, Monday through Friday, 8 a.m.–5 p.m.

[National Sexual Assault Hotline](#)

- 1–800–656-HOPE (4673) (24-hour)

[National Domestic Violence Hotline](#)

- 1–800–799–SAFE (7233) (24-hour)

The [National Center for Victims of Crime](#) provides online tools and information for victims of stalking, and links to local resources nationwide.

- Love is Respect. Text “loveis” to 77054 or 1-866-331-9474 to text with an advocate via loveisrespect for support and information regarding dating violence. You can also visit <http://www.loveisrespect.org/for-yourself/contact-us/> for more information.

**CONFIDENTIAL On-Campus Help**

Upon receipt of a report of sexual misconduct, confidential resources will not report information shared with them to the police, Campus Safety & Security or college officials without your permission, except for extreme emergency circumstances.

***For students to obtain confidential on-campus services***

**Counseling Services**

Cedar Hall South, Suite 102

980-598-1710 (by appointment, 8:30 a.m.– 4:30 p.m.)

In case of an emergency, the on-call counselor is available after-hours through Campus Safety & Security (980-598-1900).

**Health Services**

Academic Center, second floor

980-598-1700

**Additional Confidential Resources:**

**Korina Ramsland Short, Director of Student Support & Advocacy Services**

401-598-2248

**Michael Waugh, Director of Inclusion & Belonging**

401-598-1784

*University confidential resources may provide non-identifying information to be counted for the Annual Security Report.*

***For employees to obtain confidential counseling services***

Employees may contact the university's employee assistance provider, Coastline EAP, at 1-800-445-1195.

**NON-CONFIDENTIAL On-Campus Help**

Johnson & Wales employees who cannot guarantee confidentiality will nevertheless maintain your privacy. Any information you provide to a non-confidential resource will be kept private and used only as necessary to investigate and address a concern and/or to notify the Title IX Coordinator, who is responsible for tracking patterns of sexual misconduct and for detecting systemic issues.

**Campus Safety & Security**

Cedar Hall South, Suite 113, 980-598-1900 (24-hours, seven days a week)

**Anonymous Report** to Campus Safety & Security through Silent Witness (online only)

**Title IX Coordinator / Nondiscrimination Coordinator**

Matthias Rubekeil 8 Abbott Park Place, Providence, RI, 401-598-2703

**Residential Life**

(24 hours a day in each residence hall)

Resident Assistants, Area Coordinators, Director of Residential Life

**Dean of Students**

Cedar Hall South, Suite 100, 980-598-1830

**Community Standards and Conduct**

Wildcat Center, Office 107, 980-598-1820

**Human Resources**

Gateway Center, Suite 412, 980-598-1006

Reports may also be made confidentially and anonymously by filling out an **online confidential report** via the [Equity & Compliance Services](#) webpage. You may call the JWU Reporting Hotline and leave a message by dialing 1-833-JWU-LINE (1-833-598-5463). If you want to leave an anonymous message on the JWU Reporting Hotline, please dial \*67 plus the hotline telephone number (\*67-401-383-7026) to block your caller ID before leaving your message.

Any student or employee who reports to the university pursuant to one of the above reporting options that he or she has been a victim of sexual assault, dating violence, domestic violence or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's rights and options under this policy and other relevant university procedures.

### **Criminal and Disciplinary Action:**

#### **What Action May Be Taken**

1. **General Statement:** Johnson & Wales University is committed to complying with the federal legal requirement that it provide a "prompt, fair, and impartial" adjudication process for complainants (the reporting students, employees, or third-parties) and respondents (the responding parties) in sexual misconduct matters ("Fairness"). The concept of Fairness means the university will comply with the explicit provisions in its processes and policies; the concept of Fairness does not give students any rights other than those in the explicit provisions of university processes and policies. Such processes and policies are not intended to, and do not, create a contractual agreement with any student or other individual, and it does not grant any student or other individual any contractual rights. When the university receives a good faith report or other information alleging that a university student or an employee has engaged in sexual misconduct the university may commence an investigation.
2. **Criminal Prosecution:** If you choose to pursue criminal prosecution through the courts, the incident should be reported to the police. Remember, a police report does not require a victim to prosecute and campus personnel are available to assist you when notifying the police. Please see [Getting Help](#) for sources of assistance for victims when moving through the prosecution process.
3. **Enforcement of Protective Orders:** If you have obtained a protective order from the court system, contact the Title IX Coordinator. The Title IX Coordinator will disseminate the protective order to CS&S and will arrange for necessary supportive measures to allow the beneficiary of the protective order access to class, housing, transportation, and work. Although CS&S will be made aware of the protective order, neither CS&S nor the university can enforce the protective order.
4. **University Disciplinary Action:**  
If you choose to report the matter to the university, the incident should be reported to CS&S. Please see [Getting Help](#) for contacting CS&S. Sexual assault and relationship violence (including dating violence, domestic violence, stalking, and sexual exploitation) are violations of this policy, the Prohibited Discrimination and Harassment (including Sexual Harassment) Policy, Policy Governing Reporting of Misconduct and Whistleblowing, and the Student Code of Conduct, as well as state and federal law. including Title IX of the Education Amendments of 1972 (Title IX). Visit "Policies and Resources" at [www.jwu.edu/compliance](http://www.jwu.edu/compliance).

Sexual assault, sexual harassment and relationship violence alleged to have been committed by students are addressed through the university's [Conduct Review Process](#) for claims that do not fall

within the scope of JWU's Title IX Policy and Procedures. If any matter is dismissed as outside the scope of Title IX, then, in the sole discretion of the university, the university may bring charges and address such conduct under the Conduct Review Process, which will apply to matters outside the scope of Title IX. The university shall take such steps as needed to ensure compliance with any other university Rules, including the Student Code of Conduct. Such steps could include taking disciplinary action against respondents who are not subject to adjudication under the Title IX Policy and Procedures or are found not responsible for violations of the Title IX Policy and Procedures. For avoidance of doubt, a respondent may be found not responsible for Title IX violations but, thereafter, be found responsible for violations of any other university Rules, including violations of the Student Code of Conduct and Title VII. Please see the Conduct Review Process and the university's Title IX Policy and Procedures for more information about the rights of parties related to complaints of sexual assault and relationship violence. Possible sanctions for a violation of the Student Code of Conduct regarding sexual assault and relationship violence are set forth in Sanctions.

**Claims involving employees that fall within the scope of JWU's Title IX Policy and Procedures are addressed through the procedures outlined in the Title IX Policy and Procedures. Please see the university's Title IX Policy and Procedures for additional information about the Title IX process.<sup>1</sup>**

As required pursuant to CFR (34 CFR 668.46), where allegations of sexual assault, stalking, dating and domestic violence involving employees are concerned and the university's Title IX policy and procedures are not applicable, the following procedure shall be used:

- The Title IX coordinator will assess the reported information and address any immediate health or safety concerns. If a complainant requests an investigation or disciplinary action, or if the Title IX coordinator determines that an investigation is warranted, the Title IX coordinator will subsequently initiate and oversee an investigation. The Title IX coordinator may designate an investigator from the university's pool of investigators and/or an experienced external investigator to conduct a prompt, thorough, fair, and impartial investigation. Depending on the circumstances, the investigator may collaborate with the respondent's supervisor when conducting the investigation.
- The investigation is a neutral fact-gathering process. During the investigation, each of the parties will have an opportunity to be heard and to submit information and corroborating evidence. The investigator will notify and meet separately with the complainant, the respondent and any third-party witnesses, as appropriate, and will gather relevant and available evidence and information.
- The vice president of Human Resources ("Vice President") or their designee will review reports and evidence to make a determination of responsibility based on a preponderance of the evidence. If the Vice President reaches a finding of no responsibility, the matter will be considered resolved and the investigation will be closed. If the Vice President reaches a finding of responsibility, the Vice President will determine appropriate sanctions. The scope of possible sanctions will include one or more of the following: educational conversation and additional training, disciplinary action, no contact – order, transfer of position, removal of administrative appointment, demotion, suspension, and/or termination of employment.
- Any sanction or combination of sanctions imposed upon a respondent will be documented in



respondent's personnel file. The decision of the vice president is final and is not subject to further university appeal or grievance. Post-adjudication rights as provided by state and federal law are not abrogated.

- The Title IX coordinator will provide both complainant and respondent with a notice of final outcome.
- Nothing in the foregoing shall limit the university from pursuing its standard disciplinary and termination procedures for other alleged matters.

**When any one of the options above is pursued, you do not forfeit your right to pursue the remaining options.** Compliance with the items listed above does not constitute a violation of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g).

### **Rights of the Complainant and Employee-Respondent (the "Parties") for Complaints of Sexual Assault, Sexual Exploitation, Dating Violence, Domestic Violence and Stalking**

For complaints of sexual assault, sexual exploitation, dating violence, domestic violence and stalking alleged to have been committed by an employee, the parties will have the following rights in connection with the examination of the complaint by Human Resources:

- The right to Fairness in the adjudicatory process, as defined above and subject to the caveats above.
- The right to a copy of this Policy
- The right to a proceeding conducted by unbiased university officials who receive annual training on issues related to sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence and stalking and how to conduct an investigation
- The right to confidentiality of identity, except when disclosure is necessary to carry out the disciplinary process or as otherwise permitted by state or federal law
- The right to a proceeding that protects the safety of the parties and promotes accountability. University officials use the "more likely than not" standard to evaluate alleged violations
- The right to be accompanied to the proceeding by an advisor of their choice. The advisor may accompany the party, but may not participate in any manner during the proceeding. Please see the university's Title IX Policy and Procedures for additional information about the role of advisors in the Title IX process.<sup>7</sup>
- The right to bring any relevant materials and witnesses with personal, relevant knowledge of the incident to the proceeding
- The right for the reporting party or witness not to be subject to disciplinary proceedings arising out of the report unless there is a specific determination that the report was not made in good faith or the reporting party or witness committed an egregious violation of a university Rule as determined by the university in its sole discretion.
- The right to be informed in writing of the outcome of the proceeding, including when such results become final. This includes disclosure to the parties of any sanction imposed that pertains to a sex offense and any sanction imposed that directly relates to the complainant with respect to other alleged sexual harassment violations. The parties do not need to submit a request for such

information. In addition, for any crime of violence, the university will, upon written request and in accordance with applicable law, disclose to the complainant all sanctions imposed against the respondent. If the complainant is deceased as a result of the crime of violence, the outcome of the proceeding and sanctions will be provided to the complainant's next of kin if so requested.

The university will take steps to prevent the recurrence of any harassment, correct any discriminatory effects on the complainant and others, and implement protective or interim measures as requested and as required by law. The university will complete the examination of the complaint within a reasonably prompt time frame, usually within sixty days, but will allow for the extension of time frames with written notice to the complainant and respondent of the delay.

*Johnson & Wales University prohibits retaliation, including intimidation, threats, coercion or discrimination, against any individual who has made a good faith complaint, who has cooperated as a witness or a complainant in the investigation of such a complaint, or who has participated as a witness or complainant in any university proceeding. Any person found to have engaged in retaliation, or to have encouraged others to engage in retaliation, will be subject to disciplinary action up to and including termination of employment or dismissal from the university.*

## **STATE LAWS BY CAMPUS**

Johnson & Wales University encourages individuals to report any incidents which may be violations of State Law to law enforcement authorities. Doing so does not preclude an individual from reporting the incident to the university. The following definitions and statutes are taken from the Rhode Island General Laws that may be relevant to misconduct described in this policy.

### **Rhode Island**

#### **Sexual Assault**

[R.I. Gen. Laws § 11-37](#)

##### **§ 11-37-2**

*First degree sexual assault.* – A person is guilty of first degree sexual assault if he or she engages in sexual penetration with another person, and if any of the following circumstances exist:

- (1) The accused, not being the spouse, knows or has reason to know that the victim is mentally incapacitated, mentally disabled or physically helpless.
- (2) The accused uses force or coercion.
- (3) The accused, through concealment or by the element of surprise, is able to overcome the victim.
- (4) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification or stimulation.

##### **§ 11-37-4**

*Second degree sexual assault.* – A person is guilty of a second-degree sexual assault if he or she engages in sexual contact with another person and if any of the following circumstances exist:

- (1) The accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled or physically helpless.

(2) The accused uses force, element of surprise, or coercion.

(3) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification or stimulation.

**§ 11-37-6**

*Third degree sexual assault. –*

(a) Definitions. For purposes of this chapter, “position of authority” means and includes, but is not limited to, any person who is acting in the place of a parent and charged with any of a parent’s rights, duties, or responsibilities to a person under the age of eighteen (18) years, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a person under the age of eighteen (18) years, either independently or through another, no matter how brief, at the time of the act.

(b) A person is guilty of third-degree sexual assault if:

(1) He or she is over the age of eighteen (18) years and engaged in sexual penetration with another person over the age of fourteen (14) years and under the age of consent, sixteen (16) years of age; or

(2) He or she is over the age of eighteen (18) years and engaged in sexual penetration or sexual contact with another person over the age of fourteen (14) years and under the age of eighteen (18) years, under circumstances whereby:

(i) The accused has supervisory or disciplinary power over the victim by virtue of the accused’s legal, professional, or occupational status; or

(ii) The accused is otherwise acting in a position of authority with respect to the victim.

(iii) It shall not be a violation of subsection (b)(2) of this section if the parties are:

(A) Engaging in sexual penetration or contact consensually;

(B) Between the ages of sixteen (16) and twenty (20) years; and

(C) No more than thirty (30) months apart in age.

**Dating Violence and Domestic Violence**

**[R.I. Gen. Laws § 12-29](#)**

**§ 12-29-2**

Definitions. –

(a) “Domestic violence” includes, but is not limited to, any of the following crimes when committed by one family or household member against another:

(1) Simple assault (§ 11-5-3);

(2) Felony assaults (chapter 5 of title 11);

(3) Vandalism (§ 11-44-1);

(4) Disorderly conduct (§ 11-45-1);

(5) Trespass (§ 11-44-26);

(6) Kidnapping (§ 11-26-1);

(7) Child-snatching (§ 11-26-1.1);

(8) Sexual assault (§§ 11-37-2, 11-37-4);

(9) Homicide (§§ 11-23-1 and 11-23-3);

- (10) Violation of the provisions of a protective order entered pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8 where the respondent has knowledge of the order and the penalty for its violation, or a violation of a no contact order issued pursuant to § 12-29-4;
  - (11) Stalking (chapter 59 of title 11);
  - (12) Refusal to relinquish or to damage or to obstruct a telephone (§ 11-35-14);
  - (13) Burglary and Unlawful Entry (chapter 8 of title 11);
  - (14) Arson (chapter 4 of title 11);
  - (15) Cyberstalking and cyberharassment (§ 11-52-4.2);
  - (16) Domestic assault by strangulation § 11-5-2.3; and
  - (17) Electronic tracking of motor vehicles (§ 11-69-1).
- (b) "Family or household member" means spouses, former spouses, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past three (3) years, and persons who have a child in common regardless of whether they have been married or have lived together, or persons who are, or have been, in a substantive dating or engagement relationship within the past one year which shall be determined by the court's consideration of the following factors:
- (1) The length of time of the relationship;
  - (2) The type of the relationship;
  - (3) The frequency of the interaction between the parties.
- (c) "Protective order" means an order issued pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8.
- (d) "Victim" means a family or household member who has been subjected to domestic violence.

### **Strangulation**

#### [R.I. General Law § 11-5-2-3](#)

§ 11-5-2.3 Domestic assault by strangulation. –

- (a) Every person who shall make an assault or battery, or both, by strangulation, on a family or household member as defined in subsection 12-29-2(b), shall be punished by imprisonment for not more than ten (10) years.
- (b) Where the provisions of "The Domestic Violence Prevention Act", chapter 29 of title 12, are applicable, the penalties for violation of this section shall also include the penalties as provided in § 12-29-5.
- (c) "Strangulation" means knowingly and intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person, with the intent to cause that person harm.

### **Stalking**

#### [R.I. Gen. Laws § 11-59](#)

§ 11-59-2 Stalking prohibited. –

- (a) Any person who:
  - (1) harasses another person; or

- (2) willfully, maliciously and repeatedly follows another person with the intent to place that person in reasonable fear of bodily injury, is guilty of the crime of stalking.
- (b) Stalking shall be deemed a felony punishable by imprisonment for not more than five (5) years, by a fine of not more than ten thousand dollars (\$10,000), or both.

### **Cyberstalking and Cyberharassment**

#### [R.I. Gen. Laws 11-52-4.2](#)

Whoever transmits any communication by computer or other electronic device to any person or causes any person to be contacted for the sole purpose of harassing that person or his or her family is guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars (\$500), by imprisonment for not more than one year, or both. For the purpose of this section, "harassing" means any knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or bothers the person, and which serves no legitimate purpose. The course of conduct must be of a kind that would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

- (b) A second or subsequent conviction under subsection (a) of this section shall be deemed a felony punishable by imprisonment for not more than two (2) years, by a fine of not more than six thousand dollars (\$6,000), or both.

### **Unauthorized dissemination of indecent material**

#### [R.I. Gen Laws 11-64-3](#)

- (a) A person is guilty of unauthorized dissemination of a sexually explicit visual image of another person when the person intentionally, by any means, disseminates, publishes, or sells:
- (1) A visual image that depicts another identifiable person eighteen (18) years or older engaged in sexually explicit conduct or of the intimate areas of that person;
  - (2) The visual image was made, captured, recorded, or obtained under circumstances in which a reasonable person would know or understand that the image was to remain private;
  - (3) The visual image was disseminated, published, or sold without the consent of the depicted person; and
  - (4) With knowledge or with reckless disregard for the likelihood that the depicted person will suffer harm, or with the intent to harass, intimidate, threaten, or coerce the depicted person.
- (b) Subsection (a) shall not apply to:
- (1) A visual image that involves voluntary exposure of intimate areas or of sexually explicit conduct in a public or commercial setting, or in a place where a person does not have a reasonable expectation of privacy;
  - (2) Dissemination made in the public interest, scientific activities, or educational activities;
  - (3) Dissemination made in the course of a lawful public proceeding;
  - (4) Dissemination made for purposes of law enforcement, criminal reporting, corrections, legal proceedings, the reporting of unlawful conduct, or for medical treatment; or

- (5) Dissemination of an image that constitutes a matter of public concern, such as a matter related to a newsworthy event or related to a public figure.
- (c) For the purposes of this section, "intimate areas" means the naked genitals, pubic area, buttocks, or any portion of the female breast below the top of the areola of a person that the person intended to protect from public view.
- (d) A first violation of this section shall be a misdemeanor and, upon conviction, subject to imprisonment of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both. A second or subsequent violation of this section shall be a felony and, upon conviction, subject to imprisonment for not more than three (3) years, a fine of not more than three thousand dollars (\$3,000), or both.
- (e) Any person who intentionally threatens to disclose any visual image described in subsection (a) and makes the threat to obtain a benefit in return for not making the disclosure or in connection with the threatened disclosure, shall be guilty of a felony and, upon conviction, be subject to imprisonment for up to five (5) years, a fine of up to five thousand dollars (\$5,000), or both.
- (f) Any person who demands payment of money, property, services, or anything else of value from a person in exchange for removing any visual image described in subsection (a) from public view shall be guilty of a felony and, upon conviction, be subject to imprisonment for up to five (5) years, a fine of up to five thousand dollars (\$5,000), or both.
- (g) Those in violation of this section shall not be subject to sex offender registration requirements as set forth in chapter 37.1 of title 11 entitled "Sexual Offender Registration and Community Notification Act."
- (h) A violation of this section is committed within this state if any conduct that is an element of the offense, or any harm to the depicted person resulting from the offense, occurs in this state.
- (i) Nothing in this section shall be construed to impose liability on an interactive computer service, as defined in 47 U.S.C. § 230(f)(2), an information service, as defined in 47 U.S.C. § 153, or a telecommunications service, as defined in § 44-18-7.1, for content provided by another person.

### **Consent**

Consent, in reference to sexual activity, is not defined by statute in Rhode Island. However, lack of consent due to force or incapacitation is an element of the crime of sexual assault.

### **Massachusetts**

The following definitions and statutes are taken from the Massachusetts State Laws that may be relevant to misconduct described in this policy.

#### **Sexual Assault**

##### [Indecent Assault and Battery: MGL c.265, s.13h](#)

Section 13H. Whoever commits an indecent assault and battery on a person who has attained age fourteen shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment for not more than two and one-half years in a jail or house of correction.

Whoever commits an indecent assault and battery on an elder or person with a disability, as defined in section 13K, shall be punished by imprisonment in the state prison for not more than 10 years, or by

imprisonment in the house of correction for not more than 2 1/2 years, and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for not more than 20 years. A prosecution commenced under this paragraph shall not be placed on file nor continued without a finding.

[Rape: MGL c.265, s.22](#)

Section 22.

(a) Whoever has sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise, or is committed during the commission or attempted commission of an offense defined in section fifteen A, fifteen B, seventeen, nineteen or twenty-six of this chapter, section fourteen, fifteen, sixteen, seventeen or eighteen of chapter two hundred and sixty-six or section ten of chapter two hundred and sixty-nine shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

(b) Whoever has sexual intercourse or unnatural sexual intercourse with a person and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for not more than twenty years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term or years.

Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine-gun or assault weapon, shall be punished by imprisonment in the state prison for not less than ten years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

For the purposes of prosecution, the offense described in subsection (b) shall be a lesser included offense to that described in subsection (a).

### **Dating Violence and Domestic Violence**

Massachusetts law does not define the crimes of “dating violence” or “domestic violence”. However, state law defines the crime of “abuse” in [G.L. c. 209A § 1](#) as: “the occurrence of one or more of the following acts between family or household members:

(a) attempting to cause or causing physical harm;



- (b) placing another in fear of imminent serious physical harm;
- (c) causing another to engage involuntarily in sexual relations by force, threat or duress."

"Family or household members" is defined as: "persons who

- (a) are or were married to one another;
- (b) are or were residing together in the same household;
- (c) are or were related by blood or marriage;
- (d) having a child in common regardless of whether they have ever married or lived together; or
- (e) are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston municipal courts consideration of the following factors:
  - (1) the length of time of the relationship;
  - (2) the type of relationship;
  - (3) the frequency of interaction between the parties; and
  - (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship."

### **Stalking**

Stalking is defined under [G.L. c. 265, § 43 \(a\)](#) as follows:

"Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking . . . The conduct, acts or threats described in this subsection shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications."

### **Consent**

Consent in reference to sexual activity, is not defined by statute in Massachusetts. The lack of consent is an element of the crimes indecent assault and battery and rape.

### **Charlotte**

Johnson & Wales University encourages individuals to report any incidents which may be violations of State Law to law enforcement authorities. Doing so does not preclude an individual from reporting the incident to the university. The following definitions and statutes are taken from the North Carolina General Laws that may be relevant to misconduct described in this policy.

### **Sexual Assault**

Article 7B - Rape and Other Sex Offenses.

#### **§ 14-27.20. Definitions.**

The following definitions apply in this Article:



- (1) Repealed by Session Laws 2018-47, s. 4(a), effective December 1, 2018.
- (1a) Against the will of the other person. – Either of the following: a. Without consent of the other person. b. After consent is revoked by the other person, in a manner that would cause a reasonable person to believe consent is revoked.
- (2) Mentally incapacitated. – A victim who due to any act is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.
- (2a) Person who has a mental disability. – A victim who has an intellectual disability or a mental disorder that temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.
- (3) Physically helpless. – Any of the following: a. A victim who is unconscious. b. A victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.
- (4) Sexual act. – Cunnilingus, fellatio, anilingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body. It is an affirmative defense that the penetration was for accepted medical purposes.
- (5) Sexual contact. – Any of the following: a. Touching the sexual organ, anus, breast, groin, or buttocks of any person. b. A person touching another person with their own sexual organ, anus, breast, groin, or buttocks. c. A person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.
- (6) Touching. – As used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim. (1979, c. 682, s. 1; 2002-159, s. 2(a); 2003-252, s. 1; 2006-247, s. 12(a); 2015-181, s. 2; 2018-47, s. 4(a); 2019-245, ss. 5(a), 6(c).)

**§ 14-27.21. First-degree forcible rape.**

- (a) A person is guilty of first-degree forcible rape if the person engages in vaginal intercourse with another person by force and against the will of the other person, and does any of the following:
  - (1) Uses, threatens to use, or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon.
  - (2) Inflicts serious personal injury upon the victim or another person.
  - (3) The person commits the offense aided and abetted by one or more other persons.
- (b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.
- (c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7; 2015-181, ss. 3(a), (b); 2017-30, s. 1.)

**§ 14-27.22. Second-degree forcible rape.**

- (a) A person is guilty of second-degree forcible rape if the person engages in vaginal intercourse with another person:
  - (1) By force and against the will of the other person; or
  - (2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know the other person has a mental disability or is mentally incapacitated or physically helpless.
- (b) Any person who commits the offense defined in this section is guilty of a Class C felony.
- (c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor does the person have any rights related to the child under Chapter 48 of the General Statutes or Subchapter I of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 5; 1981, cc. 63, 179; 1993, c. 539, s. 1130; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(b); 2004-128, s. 8; 2015-181, ss. 4(a), (b); 2018-47, s. 4(b).)

**§ 14-27.23. Statutory rape of a child by an adult.**

- (a) A person is guilty of statutory rape of a child by an adult if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.
- (b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.
- (c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.
- (d) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.
- (e) The offense under G.S. 14-27.24 is a lesser included offense of the offense in this section. (2008-117, s. 1; 2015-181, s. 5(a), 5(b); 2021-182, s.2(k).)

**§ 14-27.24. First-degree statutory rape.**

- (a) A person is guilty of first-degree statutory rape if the person engages in vaginal intercourse with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim.
- (b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.
- (c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7; 2015-181, s. 6.)

**§ 14-27.25. Statutory rape of person who is 15 years of age or younger.**

- (a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.
- (b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1; 2015-62, s. 1(a); 2015-181, s. 7(a), (b).)

**§ 14-27.26. First-degree forcible sexual offense.**

- (a) A person is guilty of a first degree forcible sexual offense if the person engages in a sexual act with another person by force and against the will of the other person, and does any of the following:
  - (1) Uses, threatens to use, or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon.
  - (2) Inflicts serious personal injury upon the victim or another person.
  - (3) The person commits the offense aided and abetted by one or more other persons.
- (b) Any person who commits an offense defined in this section is guilty of a Class B1 felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 6; 1981, c. 63; c. 106, ss. 3, 4; c. 179, s. 14; 1983, c. 175, ss. 5, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 3; 2015-181, ss. 8(a), (b); 2017-30, s. 2.)

**§ 14-27.27. Second-degree forcible sexual offense.**

- (a) A person is guilty of second degree forcible sexual offense if the person engages in a sexual act with another person:
  - (1) By force and against the will of the other person; or
  - (2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person has a mental disability or is mentally incapacitated or physically helpless.

- (b) Any person who commits the offense defined in this section is guilty of a Class C felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 7; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1131; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(c); 2015-181, ss. 9(a), (b); 2018-47, s. 4(c).)

**§ 14-27.33. Sexual battery.**

- (a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:
- (1) By force and against the will of the other person; or
  - (2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person has a mental disability or is mentally incapacitated or physically helpless.
- (b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor. (2003-252, s. 2; 2015-181, s. 15; 2018-47, s. 4(d).)

**Dating Violence**

North Carolina state law does not provide a definition for dating violence.

**Domestic Violence**

Chapter 50 B

**§ 50B-1. Domestic violence; definition.**

- (a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:
- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
  - (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or
  - (3) Committing any act defined in G.S. 14-27.21 through G.S. 14-27.33.
- (b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:
- (1) Are current or former spouses;
  - (2) Are persons of opposite sex who live together or have lived together;
  - (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
  - (4) Have a child in common;
  - (5) Are current or former household members;
  - (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the

relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

- (c) As used in this Chapter, the term "protective order" includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties. (1979, c. 561, s. 1; 1985, c. 113, s. 1; 1987, c. 828; 1987 (Reg. Sess., 1988), c. 893, ss. 1, 3; 1995 (Reg. Sess., 1996), c. 591, s. 1; 1997-471, s. 1; 2001-518, s. 3; 2003-107, s. 1; 2009-58, s. 5; 2015-181, s. 36.)

**§ 14-27.33A. Sexual contact or penetration under pretext of medical treatment.**

- (a) Definitions. – The following definitions apply in this section:
- (1) Incapacitated. – A patient's incapability of appraising the nature of a medical treatment, either because the patient is unconscious or under the influence of an impairing substance, including, but not limited to, alcohol, anesthetics, controlled substances listed under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties.
  - (2) Medical treatment. – Includes an examination or a procedure.
  - (3) Patient. – A person who has undergone or is seeking to undergo medical treatment.
  - (4) Sexual contact. – The intentional touching of a person's intimate parts or the intentional touching of the clothing covering the immediate area of the person's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or done in a sexual manner.
  - (5) Sexual penetration – Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, regardless of whether semen is emitted, if that intrusion can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or done in a sexual manner.
- (b) Offense; Penalty. – Unless the conduct is covered under some other provision of law providing greater punishment, a person who undertakes medical treatment of a patient is guilty of a Class C felony if the person does any of the following in the course of that medical treatment:
- (1) Represents to the patient that sexual contact between the person and the patient is necessary or will be beneficial to the patient's health and induces the patient to engage in sexual contact with the person by means of the representation.
  - (2) Represents to the patient that sexual penetration between the person and the patient is necessary or will be beneficial to the patient's health and induces the patient to engage in sexual penetration with the person by means of the representation.
  - (3) Engages in sexual contact with the patient while the patient is incapacitated.
  - (4) Engages in sexual penetration with the patient while the patient is incapacitated.
- (c) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.
- (d) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime, including any other violation of law arising out of the same transaction as the violation of this section. (2019-191, s. 43(a).)

## **Stalking**

### § 14-277.3A. Stalking

#### **§ 14-277.3A. Stalking.**

- (a) Legislative Intent. - The General Assembly finds that stalking is a serious problem in this State and nationwide. Stalking involves severe intrusions on the victim's personal privacy and autonomy. It is a crime that causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others, even in the absence of express threats of physical harm. Stalking conduct often becomes increasingly violent over time.

The General Assembly recognizes the dangerous nature of stalking as well as the strong connections between stalking and domestic violence and between stalking and sexual assault. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system before stalking escalates into behavior that has serious or lethal consequences. The General Assembly intends to enact a stalking statute that permits the criminal justice system to hold stalkers accountable for a wide range of acts, communications, and conduct. The General Assembly recognizes that stalking includes, but is not limited to, a pattern of following, observing, or monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means.

- (b) Definitions. - The following definitions apply in this section:

- (1) Course of conduct. - 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, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (2) Harasses or harassment. - Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.
- (3) Reasonable person. - A reasonable person in the victim's circumstances.
- (4) Substantial emotional distress. - Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

- (c) Offense. - A defendant is guilty of stalking if the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

- (1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.
- (2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

- (d) Classification. - A violation of this section is a Class A1 misdemeanor. A defendant convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A defendant who commits the offense of stalking after having been previously convicted of a stalking

offense is guilty of a Class F felony. A defendant who commits the offense of stalking when there is a court order in effect prohibiting the conduct described under this section by the defendant against the victim is guilty of a Class H felony.

- (e) Jurisdiction. - Pursuant to G.S. 15A-134, if any part of the offense occurred within North Carolina, including the defendant's course of conduct or the effect on the victim, then the defendant may be prosecuted in this State. (2008-167, s. 2.)

### **Consent**

North Carolina Criminal Law prohibits engaging in sexual activity by force and against the will of the other person or acts that are against people who are mentally incapacitated or physically helpless. Against a person's will can be: without consent entirely; or after consent is given and then later revoked by the other person, in a manner that would cause a reasonable person to believe consent is revoked. N.C.G.S. 14-27.20(1a).