

Guideline G1-012A: Consent

Revision 2. Effective Date: October 1, 2026

This guideline is intended to clarify certain aspects of Policy 1-012 and Rule R1-012A and R1-012B related to Consent. This guideline applies to all applicable processes under Policy 1-012.

The definitions provided in Rule R1-012A apply for this guideline, including the definition for the term “Consent”, which Rule R1-012A defines as: “Consent” (when used in reference to the issue of whether a Complainant did or did not agree to allow a Respondent to engage in certain conduct) means affirmative, unambiguous, and voluntary agreement. See Guideline G1-012A for further clarification. For a non-exhaustive list of situations in which Consent has not been given, see Utah Code Section 76-5-406.”

It is the responsibility of each participant to ensure they receive the affirmative, unambiguous, and voluntary agreement of the other participant before engaging in each sexual activity or contact.

To fulfill the responsibility of ensuring Consent has been given, participants must take reasonable steps with the information known to them at the time of sexual activity or contact to ascertain if Consent was given. Consent does not have to be verbal, but a standard of verbal agreement to sexual activity provides clear communication to help participants respect each other’s boundaries.

Prior consensual sexual contact of any kind does not indicate current Consent.

Lack of protest, lack of resistance, or silence does not constitute Consent.

Consent can be withdrawn at any time by clearly communicating the withdrawal of consent. Once Consent is withdrawn, any further sexual activity or contact is not consensual.

A. When.Consent.is.Not.Voluntary.-.Incapacitation

Consent is not voluntary unless the participant has the capacity to give Consent. Sexual activity or contact is not consensual when a participant knows or should know the other participant is incapacitated. The determination of whether a participant should have known that another participant was incapacitated is based upon whether a sober, reasonable person should have known that the participant was incapacitated.

A participant’s own intoxication or impairment does not diminish their obligation to take reasonable steps to determine whether Consent was given. If both participants were

incapacitated, the person who initiated the sexual activity or contact may be held responsible for engaging in nonconsensual sexual activity or contact.

A participant is incapacitated when that person cannot make a rational, reasonable decision to give knowing Consent. A participant may not have the capacity to consent when:

1. the participant is under the influence of a substance (e.g., drugs or alcohol) that impairs or limits their understanding of the extent, fact, or nature of the sexual activity or contact;
2. the participant is asleep or unconscious;
3. the participant has a mental or physical condition that impairs or limits their understanding of the extent, fact, or nature of the sexual activity or contact;
4. the participant does not meet the requirements of applicable local, state, or federal laws, including regarding the legal age of consent (see Utah Code Section 76-5-406).

B. When Consent is Not Voluntary - Coercion

Consent is not voluntary when coercion is present. Coercion means causing a reasonable person of ordinary sensitivity to do or submit to something they would not otherwise do, taking into account all circumstances, including age and relationship. Coercion includes, but is not limited to, the following:

1. overcoming the will of a participant by any direct or implied threat or use of actual force or violence, regardless of whether any harm or injury actually occurs;
2. inducing reasonable fear of immediate or future bodily injury to oneself or others, including injury to the person engaging in coercion;
3. Any threat, statement, or act showing intent to injure or intimidate; or
4. threats of or use of a weapon.

Coercion includes deliberately causing a person to be incapacitated (e.g., through drugs or alcohol) or intentionally taking advantage of the other person's incapacitation (including voluntary intoxication).

Coercion includes deception in order to engage in sexual activity or contact. This may involve lying about identity, posing as an authority figure, or deceiving a partner about contraceptive use.

Consent is not voluntary when a disparity in power between the participants is a source of pressure, manipulation, or intimidation to engage in sexual activity or contact. This guideline is intended to complement, and not to interfere or conflict with Policy 1-020:

Required.Professional.Boundaries.in.Relationships. Relationships with unbalanced power dynamics include, but are not limited to:

1. teacher/advisor and student;
2. supervisor and subordinate employee;
3. coach and athlete; or
4. other similar types of relationships.

Utah code defines circumstances where a sexual offense against a victim is considered to be without the consent of the victim. Conduct described in Utah Code Section 76-5-406. is also considered a violation of Policy 1-012.

Contacts

The designated contact officials for this guideline are:

- A. Policy Owner (primary contact person for questions and advice): Office of Equal Opportunity and Title IX.
- B. Policy Officer: General Counsel and Vice President.