

ADMINISTRATIVE POLICY SEXUAL HARASSMENT – TITLE IX

This policy pertains to community, employees, and students.

All allegations of sex-based harassment must be evaluated under this policy. If the alleged behavior(s) do not meet the described definitions or do not fit within Title IX jurisdiction, the Sexual Misconduct Policy and Procedures will be used upon dismissal by the Title IX Coordinator.

Title IX of the Education Amendments of 1972 ("Title IX") protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Fox Valley Technical College ("FVTC" or the "College") adheres to all federal, state, and local civil rights laws prohibiting discrimination in employment and education, including Title IX. FVTC does not discriminate in its educational programs and activities, including but not limited to its admissions practices and employment practices, based on sex.

FVTC also prohibits retaliation against any person opposing harassment or participating in any harassment investigation or complaint process, internal or external to the institution. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sexual harassment that are prohibited under Title IX and by FVTC policy. Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities, and/or benefits of any member of the FVTC community based on sex violates college policy. Allegations of retaliation will be addressed by the Sexual Misconduct Policy and Procedures.

A **Complainant** is an individual who is alleged to be the victim of conduct that could constitute sexual harassment or other forms of sex discrimination. A **Respondent** is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or other forms of sex discrimination.

FVTC encourages reporting of incidents and responds promptly and equitably to sexual harassment in a manner that is not deliberately indifferent. Further, it is FVTC's policy to prevent sexual harassment from denying or limiting an individual's ability to participate in or benefit from FVTC's programs or activities. FVTC offers supportive measures (regardless of whether the individual is a Complainant or a Respondent) as appropriate, as reasonably available, and without fee or charge. When sexual harassment is substantiated, FVTC will remediate any adverse effects of such conduct on campus or in FVTC-sponsored programs or activities and take measures to prevent its recurrence.

Any person may report sexual harassment (whether the person reporting is alleged to have experienced the conduct), in person, by mail, by telephone, by video, or by email, using the contact information listed for the Title IX Coordinators (below). A report may be made at any time (including during non-business hours) by emailing TitleIX@fvtc.edu or completing an [online report](#).

Title IX Coordinators:

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This Title IX Sexual Harassment policy is based on definitions outlined in regulations by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972 (34 C.F.R. § 106.30 (2020)). This policy is limited in scope to conduct that occurs within the United States and that occurs within FVTC's educational programs or activities.

This policy encompasses all prohibited sex-based conduct described below that also meets the following requirements:

- Occurs within the United States; and
- Occurs in an FVTC program or activity. This means that FVTC has substantial control over both the respondent and the complainant, in addition to the environment in which the alleged conduct took place; and
- At the time of the formal complaint, the complainant is participating or attempting to participate in an FVTC educational program or activity.

To address incidents of sexual misconduct that do not fall within the definitions of Title IX Sexual Harassment or do not meet the Title IX Sexual Harassment jurisdictional requirements, please refer to the Sexual Misconduct Policy. Specifically, FVTC's Sexual Misconduct policy applies to forms of sexual misconduct that do not fall under the scope of the Title IX Sexual Harassment policy. The Title IX Sexual Harassment and the Sexual Misconduct Policy work together to address incidents of sex-based violence and harassment in the FVTC community. In instances where the reported conduct, if substantiated, would fall under both policies, the Title IX Sexual Harassment Policy and Title IX Procedures will be followed.

This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom. See the FVTC [Academic Freedom](#) policy for more information.

Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

1. Consent

Consent is defined by Wisconsin state law (Wis. Stat. § 940.225(4) (2022)) as “words or overt actions by a person who is competent to give informed consent indicated a freely given agreement to have sexual intercourse or sexual contact.”

2. Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (including implied threats), and coercion intended to overcome resistance or produce consent.

3. Coercion

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary.

4. Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This policy also covers a person whose incapacity results from temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Prohibited Conduct

This policy applies to the following prohibited conduct:

- **Quid Pro Quo Sexual Harassment:**
 - An employee of FVTC,
 - conditioning the provision of aid, benefit, or service of FVTC,
 - on an individual’s participation in unwelcome sexual conduct.
- **Title IX Sexual Harassment:**
 - Unwelcome conduct,
 - determined by a reasonable person,
 - to be so severe, and
 - pervasive, and
 - objectively offensive,
 - that it effectively denies a person equal access to FVTC’s education program

or activity.

- **Sexual Assault, defined as:**

- a. **Rape:**

- Penetration, no matter how slight,
 - of the vagina or anus of a person,
 - with any body part or object, or
 - oral penetration
 - of a sex organ of the Complainant, or
 - by the Respondent's sex organ,
 - without the consent of the Complainant,
 - including instances where the Complainant is incapable of giving consent because of their age or because of temporary or permanent mental or physical incapacity.

- a. **Fondling and/or other Criminal Sexual Contact:¹**

- The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent,
 - without the consent of the Complainant,
 - for the purpose of sexual degradation, sexual gratification, or sexual humiliation
 - Or, the forced touching by the Complainant of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts,
 - without the consent of the Complainant,
 - for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

- b. **Incest:**

- Sexual intercourse,
 - between persons who are related to each other,
 - within the degrees wherein marriage is prohibited by Wisconsin law.

- c. **Statutory Rape:**

- Sexual intercourse,
 - with a person who is under the statutory age of consent of 18 years old.

- **Dating Violence, defined as:**

- Violence,

¹ Contact with private body parts is considered to be done for the purpose of sexual degradation, sexual gratification, or sexual humiliation unless: (1) the contact can be proven inadvertent; (2) the contact is for a legitimate medical (or other privileged) purpose and thus is conduct for which consent should have been sought and obtained by the provider; (3) the contact involves a Respondent who is pre-sexual, based on maturity/age (thus their intent is not sexual); (4) the contact involves a Respondent who cannot developmentally understand sexual contact or that their contact is sexual; or (5) The contact is something like butt-slapping on a team and is both minimal and unlikely to have sexual motivation or purpose, as shown by the context of the act(s).

- on the basis of sex,
- committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For this definition—
 - 1. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - 2. Dating violence does not include acts covered under the definition of Domestic Violence.

- **Domestic Violence, defined as:**

- a felony or misdemeanor crime of violence,
- committed by a Respondent who is a current or former spouse or intimate partner of the Complainant,
- by a person with whom the Complainant shares a child in common, or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Wisconsin, or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Wisconsin.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabiting must be current or former spouses or have an intimate relationship.

- **Stalking, defined as:**

- A Respondent engaging in a course of conduct,
- on the basis of sex,
- directed at the Complainant, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- A "reasonable person" means a person under similar circumstances and with a similar identity (student, staff, faculty, age, position, etc.) as the Complainant.

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

Sanction Ranges

FVTC employs a range of interventions to address concerns raised about potential or actual policy violations, including problem-solving, intervention, confrontation, investigation, and Policy enforcement.

Sanctions for Prohibited Conduct under this policy range from warning to suspension and expulsion or termination. Sanctions are imposed on a case-by-case basis and can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative conduct record. Employee sanctions align with the [Progressive Discipline](#) policy.

Standard of Proof

FVTC uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that FVTC will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

Employee Obligation to Respond

All FVTC faculty and employees (including student-employees), other than those deemed Confidential Employees, are expected to promptly report all known details of actual or suspected harassment, retaliation and/or Other Prohibited Conduct to the Title IX Coordinator immediately, although there are some limited exceptions. FVTC trains all employees on their response obligations.

Failure of an Employee to report an incident of harassment, or retaliation of which they become aware is a violation of FVTC Policy and can be subject to disciplinary action for failure to comply/failure to report.

An FVTC Faculty or Staff member who is a target of harassment, or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

Confidential Employees

FVTC designates only on-campus Licensed Counselors as Confidential Employees. To respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving Notice (as defined in the Title IX Procedures) of the potential allegation. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.

Employees who have confidentiality as described above, and who receive Notice within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act statistical reporting purposes unless they believe it would be harmful to the individual.

Confidential employees, upon receiving notice, are still required to inform the reporting party how to contact the FVTC Title IX Coordinator, how to make a complaint under this Policy and that the Title IX Coordinator may be able to offer supportive measures, and/or initiate an informal resolution process.

Reporting Timeline

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to FVTC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy and when the complaining party is not participating or attempting to participate in FVTC's education program and activities) is at the Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

False Allegations and Evidence

Deliberately false and/or malicious accusations made under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations made in good faith but ultimately found to be erroneous or not resulting in a determination of a policy violation.

Additionally, witnesses and parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead in an official investigating or resolution process can be subject to discipline under appropriate FVTC policies.

Amnesty

The FVTC community encourages Complainants and witnesses to report misconduct and crimes. Sometimes, Complainants or witnesses are hesitant to give Notice to FVTC officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of FVTC community that Complainants choose to give Notice of misconduct to FVTC officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, FVTC may offer parties and witnesses amnesty from other minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by FVTC,

and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

Students

FVTC also maintains an amnesty policy for students, employees, and witnesses who assist others in need.

Employees

Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced, fearing they may be held accountable themselves. FVTC may, at its discretion, offer employee Complainants amnesty from minor policy violations related to the incident.

Independence and Conflicts of Interest

The Title IX Coordinators oversee the Title IX and Sexual Misconduct Policies and the associated Procedures, and act with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Title IX Compliance Team are vetted and trained to ensure they are not biased in favor of or against any party in a specific complaint, or in favor of or against Complainants and/or respondents generally. Members of the Title IX Compliance Team can be found at <http://www.fvtc.edu/SexualMisconduct>.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the FVTC Vice President - Student Success or the Vice President - Administration. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member must be promptly raised with the Title IX Coordinator.

Confidentiality/Privacy

FVTC makes every effort to preserve the Parties' privacy. FVTC will not share the identity of any individual who has made a report of Harassment, Retaliation, or Other Prohibited Conduct; any Complainant; any individual who has been reported to be the perpetrator of Harassment, Retaliation, or Other Prohibited Conduct; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation or resolution proceeding arising under these policies and procedures.

Further, Parties and Advisors are expected to maintain the confidentiality of all information created by or shared with them by FVTC during any investigation and/or resolution process. Parties are entitled to share their own accounts and experiences but are encouraged to consider the sensitivity of the matter if they do so and should consult with their Advisors on any potential implications of doing so.

Emergency Removal/Interim Actions/Leaves

FVTC can act to remove a Student Respondent accused of Title IX Sexual Harassment from its education program or activities, partially or entirely, on an emergency basis when an

individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal.

Employees are subject to existing procedures for interim actions and leaves.

Clery Act/VAWA-related Obligations

The following provisions address FVTC's obligations under the Clery Act and the Violence Against Women Act ("VAWA").

Federal Timely Warning Obligations

FVTC will issue timely warnings for reported incidents that, within FVTC geography, pose a serious or continuing threat of bodily harm or danger to members of the FVTC community.

FVTC will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger. For additional information, see the [Reporting Campus Crimes Policy](#).

Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining or protective orders, and it is particularly time sensitive. FVTC will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided by law enforcement).
- Seeking medical treatment can be essential, even if it is not to collect forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.

- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

Federal Statistical Reporting Obligations

Certain institutional officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with Clery Act Coordinator for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

Revision of this Policy

The Title IX Coordinators regularly review and update these policies and procedures. FVTC reserves the right to make changes to this document as necessary. Once these changes are published online, they take effect.

This policy does not create legally enforceable protections beyond those provided by the background state and federal laws that govern such policies and codes, generally.

Adopted: 08/11/2025

Reviewed: XX/XX/XX

Revised: XX/XX/XX

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