

- ❖ Consent is not present when an individual does not have the capacity to give consent, voluntarily or involuntarily, and/or is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:
 - ❖ The person is underage (generally 17 in Illinois)
 - ❖ Physical condition or mental disability that impairs the individual's ability to give consent
 - ❖ Consumption of drugs or alcohol (voluntarily or involuntarily), being in a state of unconsciousness, asleep, or any other state in which the person is unaware that sexual activity is occurring

Signs of Incapacitation

Some indicators of a lack of capacity to give consent due to consumption of drugs or alcohol may include, but are not limited to:

- ❖ When an individual demonstrates that he/she is unaware of where they are, how he/she got there, or why or how he/she became engaged in a sexual interaction
- ❖ Lack of full control over physical movements (for example, difficulty walking or standing without stumbling or assistance)
- ❖ Inability to effectively communicate for any reason (for example, slurring speech, difficulty finding words)

Sexual Exploitation

Sexual exploitation is taking sexual advantage of another person for the benefit of oneself or a third party when consent is not present. This includes, but is not limited to, the following actions (including when they are done via electronic means, methods, or devices):

- ❖ Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent
- ❖ Indecent or lewd exposure or inducing others to expose themselves when consent is not present
- ❖ Recording any person engaged in sexual or intimate activity in a private space without that person's consent
- ❖ Distributing sexual information, images, or recordings about another person without that person's consent;
- ❖ Recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation
- ❖ Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs

VIOLENCE AGAINST WOMEN & PREVENTING SEXUAL VIOLENCE

Federal Violence Against Women Act (VAWA)

Midstate College complies with the federal Violence Against Women Act amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act and the accompanying regulations which become effective on July 1, 2015. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled.

State of Illinois Preventing Sexual Violence in Higher Education Act (Title IX)

Midstate College complies with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the College's educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. Title IX also provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, recruitment, consideration, or selection thereof whether full-time or part-time, under any education program or activity operated by the College.

The College's Title IX Coordinator and Deputy Title IX Coordinator respond to reports of violations to Title IX compliance. A complainant has the right to contact the Illinois Department of Human Rights (IDHR), Equal Employment Opportunity Commission (EEOC) or the United States Department of Education – Office of Civil Rights (OCR) about filing a formal complaint. An IDHR complaint must be filed within one hundred eighty (180) days of the alleged incident. A complaint with the EEOC must be filed within three hundred (300) days of the alleged incident. In addition, an appeal process is available through the Illinois Human Rights Commission (IHRC) after the IDHR has completed its investigation of the complaint.

Administrative Contacts

Illinois Department of Human Rights (IDHR)

Chicago

312.814.6200 or 800.662.3942 / TTY: 866.740.3953

Springfield

217.785.5100 / TTY: 866.740.3953

Illinois Human Rights Commission (IHRC)

Chicago

312.814.6269 / TY: 312.814.4760

Springfield

217.785-350 / TTY: 217.557.1500

United States Equal Employment Opportunity Commission (EEOC)

Chicago

800.669.4000 / TTY: 800.869.8001

United States Department of Education – Office of Civil Rights (OCR)

400 Maryland Avenue, SW

Washington D.C., 20202-1100

Customer Service Hotline

800.421.3481 / TDD: 877.521.2172

Facsimile

202.453.6012

www.2.ed.gov/about/offices/list/ocr/complaintintro.html**Sexual Misconduct Policy**

Midstate College is committed to fostering an environment in which all members of our campus community are safe, secure, and free from sexual misconduct of any form, including but not limited to, sexual assault, stalking, dating or domestic violence, and sexual harassment. Such conduct violates the community values and principles of our institution and disrupts the living, learning, and working environment for students, faculty, staff and other community members. In furtherance of this policy, Midstate College has adopted the following standards of conduct for all members of our community – students, faculty, and staff, as well as College vendors, contractors, visitors, guests, and third parties – with respect to sexual misconduct. These standards apply equally to all regardless of the sex, gender, sexual orientation, gender identity, or gender expression of any of the individuals involved.

Midstate College provides information regarding the institution's campus sexual assault programs to prevent sex offenses and outlines procedures to follow when a sex offense occurs. Being aware of your surroundings and behavior can go a long way in the prevention of sex offenses. The Crime Prevention Security and Safety section of this report provides information on how to prevent crimes and how to keep you safe.

Midstate College has jurisdiction to investigate any alleged violations of this policy that occur in the context of a College program or activity or that otherwise affect the College's working or learning environments, regardless of whether that conduct occurred on or off campus. In situations where the alleged sexual misconduct occurred outside of the context of a College program or activity or off-campus, and where one or more of the parties are not members of the College community, the College's ability to investigate and/or impose disciplinary sanctions may be limited. In such instances, the College reserves the right to take any steps it deems appropriate to address the situation and provide appropriate resources to those individual(s) impacted and, where appropriate, the broader College community.

Campus Sex Crimes Prevention Act

The Campus Sex Crime Prevention Act requires sex offenders already required to register in a state to provide notice, as required under State law, to each institution of higher education in that state at which the person is employed, carries on a vocation, or is a student. The act requires that state procedures ensure this registration information is promptly made available to law enforcement agencies with jurisdiction where the institutions of higher education are located and that it is entered into appropriate state records or data systems. These changes became effective two years after enactment of the law (2002).

This act amends the Higher Education Act of 1965 to require institutions of higher education to issue a statement, in addition to other disclosures required under that Act, advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. This change takes effect two years after enactment (2002).

This act amends the Family Education Rights and Privacy Act of 1974 to clarify that nothing in the Act may be construed to prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders and requires the Secretary of Education to take appropriate steps to notify educational institutions that disclosure of this information is permitted.

Convicted sex offenders or sexual predators attending or employed at an institution of higher education in Illinois are required to comply with the Illinois Sex Offender Registration Act. The act requires the sex offender/predator to register in person with the public safety or security director of the institution of higher education at which he or she is employed or attends.

Sex Offender Registration Policy

Midstate College requires registered sex offenders to register with the Title IX Coordinator. Failure by persons to comply within ten (10) days of enrollment or conviction may result in denial of enrollment or expulsion. Campus Security will work closely with the Dean of Students to determine appropriate restrictions on a case-by-case basis. For additional information regarding sex offenders in Illinois, visit <http://www.isp.state.il.us/sor/>. Law enforcement agency information provided by the state concerning registered sex offenders may be obtained through the Director of Student Affairs office and is located on the bulletin boards in the main office lobby and the Student Affairs Office.

Specific to higher education institutions, the Sex Offender Registration Act states, "If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall also register with:

1. The chief of police in the municipality where he or she is employed or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters;
2. or the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists; and with the public safety or security director of the institution of higher education where he or she is employed or attends."

A registered sex offender is not allowed to attend class with a minor. The Registrar tracks his or her schedule, and the sex offender will be required to make schedule adaptations when necessary. In addition to this, the sex offender's class schedule is provided to campus security each term.

The State of Illinois Sexual Offender Registry List can be located at: <http://www.isp.stae.il.us/sor/> or by contacting 217.785.0653. The Registry list is also sent to the College annually and is placed on the main office and Student Affairs bulletin boards.

Harassment Policy

Midstate College will not condone or accept harassment, discrimination and/or suppression of any person or group of any kind and will investigate all allegations of harassment. Harassment can be:

- ❖ Verbal, non-verbal, or physical;
- ❖ Exclusion based upon personal or group differences;
- ❖ Intimidation or humiliation based on personal or group differences;
- ❖ Abusive language, threats, or similar acts of bigotry, racism, sexism, or discrimination;
- ❖ Jokes, comments, gossip or graffiti that perpetuate personal or group myths, fallacies, prejudices, or stereotypes;
- ❖ Any subtle or direct references based on race, sex, age, disability, sexual orientation, national origin, or religion which demean, exclude, intimidate, or adversely affects an individual(s).

Sexual Harassment Policy

The College is committed to providing an educational facility that is free from all forms of discrimination including sexual harassment. This is defined as anyone's behavior that fits the definition of sexual harassment. Sexual harassment may result in disciplinary action up to and including dismissal or expulsion. In some cases, sexual harassment could subject individuals to substantial civil penalties.

The College's policy on sexual harassment is part of its overall affirmative action efforts pursuant to state and federal laws prohibiting discrimination based on age, race, color, religion and national origin, unfavorable discharge from the military, marital status, disability, and gender. Specifically, sexual harassment is prohibited by the Civil Rights Act of 1964, as amended in 1991, and the Illinois Human Rights Act.

Each individual in the College bears the responsibility to refrain from sexual harassment in the educational facility. No one, male or female, should be subjected to unsolicited or unwelcome sexual overtures or conduct in the educational environment. Furthermore, it is the responsibility of everyone to make sure that the educational environment is free from sexual harassment. All forms of discrimination and conduct which can be considered harassing, coercive or disruptive, or which create a hostile or offensive environment, must be eliminated. Instances of sexual harassment will be investigated.