Sexual Misconduct as defined below is prohibited for students, faculty, and staff (see also Code of Student Conduct or Employee Handbook available on the University Portal).

**Sexual Harassment** is unwelcome, sexual or gender-based verbal, written or physical conduct that is,

- sufficiently severe, or persistent or pervasive and,
- has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the university's educational, social, athletic, and/or residential programs, and is based on real or reasonably perceived power differentials (quid pro quo), and/or the creation of a hostile environment or retaliation.

**Non-Consensual Sexual Intercourse** is defined as any sexual penetration or intercourse (anal, oral or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force.

- Note: “Sexual penetration” includes actual or attempted vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth-to-genital contact or genital-to-mouth contact (see Statement on Consent below).

**Non-Consensual Sexual Contact** is defined as any intentional sexual touching or attempts, however slight, with any object, by a person upon another person that is without consent and/or by force.

- Note: “Sexual touching” includes any actual or attempted bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner (see Statement on Consent below).

**Sexual Exploitation** refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (e.g., watching a person undressing, using the bathroom, or engaged in sexual acts without the consent of the person observed);
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (e.g., allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent);
- Prostitution; and
- Sexual Exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted infection (STI) and without informing the other person of the infection, and further includes administering alcohol or drugs (e.g., “date rape” drugs) to another person without his or her knowledge or consent.

**Stalking** is engaging in a course of conduct composed of a series of 2 or more separate non-continuous acts directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others and suffer emotional distress.

**Domestic Violence** includes asserted violent behavior committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
Dating Violence means violence (physical, verbal, and/or emotional) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

- **Note:** The states of Michigan and Wisconsin have defined stalking and domestic violence as violations of state law. The University will consider stalking behavior, domestic violence behavior, and dating violence behavior as violations of this sexual misconduct policy. In addition to the state law definition, the University has defined the terms as follows:

**False Imprisonment:** The detaining of a person without the person’s consent and/or against the person’s will to leave is prohibited. Therefore, false imprisonment can apply to any act in which a person intentionally restricts another person’s freedom to move or to leave without consent. This can occur on or off campus, in a building, on the streets, in a vehicle, or any other place, in which a person is restrained, against their will, from moving, whether physically, by threat, or intimidation. This can also include but is not limited to, removing that person’s means of leaving (e.g. taking and/or holding someone’s keys, wallet, phone, or other means that would provide that individual with the means to leave the vicinity).

- **Note:** This policy applies to restricting a person from leaving a resident hall room and/or failing to leave a resident’s room when requested to do so. However, this policy does not apply to authorized personnel acting within the scope of their responsibilities (e.g. Campus Safety Officers, Resident Hall Staff).

**Consent** is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated/lacks capacity has violated this policy. It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity/lack of capacity of the other.

Incapacitation/lack of capacity is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

Consent to some sexual contact, such as kissing or fondling, cannot be presumed to be consent for other sexual activity, such as intercourse. A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent.

A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

A minor below the age of consent according to state law cannot consent to sexual activity. This means that sexual contact by an adult with a person below the age of consent is a crime as well as a violation of this policy, even if the minor appeared to have wanted to engage in the act.