



## CAAN Academy of Nursing SEXUAL MISCONDUCT POLICY

The purpose of this policy is to foster an academic and working environment free from any form of discrimination and harassment, and to provide guidelines for complaints and corrective action. This policy applies to the entire CAAN Academy of Nursing community, i.e. students, faculty, staff and visitors. CAAN does not tolerate any violence including sexual assault, sexual harassment, domestic violence, dating violence, stalking, or sexual orientation/gender based harassment which is prohibited by Title IX of the Education Amendments of 1972 and The Violence Against Women Reauthorization Act of 2013.

Members of CAAN Academy community have the right to be free from discrimination, violence or threats of violence, harassment, physical and verbal abuse, on and off campus. This policy prohibits any and all forms of discrimination, harassment, and sexual misconduct. The policy defines, describes, and explains the policies and procedures to: file a complaint, file a report, list direct contacts to file a report or complaint, procedural details for a fair and prompt investigation, safety and security, and list a variety of support and resources.

CAAN Academy is committed to providing resources that educate CAAN's community to assist in ensuring a safe, respectful, discrimination and harassment free environment. The academy uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like "guilt," "innocence" and "burdens of proof" are not applicable, but the academy never assumes a responding party is in violation of CAAN's policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

### DEFINITIONS OF SEXUAL MISCONDUCT

**Sexual Misconduct** includes sexual assault, sexual harassment, sexual exploitation, sexual intimidation, dating violence, domestic violence, and stalking. This policy prohibits retaliation against anyone who files a complaint or participates in any investigation of a complaint under this policy.

- Sexual misconduct may be a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972, The Violence Against Women Reauthorization Act of 2013, and Title VII of the Civil Rights Act. In addition, some forms of sexual misconduct violate the criminal laws of the State of Illinois.
- Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by any gender identity, and can occur between people of the same or different gender identities.

**Sexual Assault** is any unwanted physical contact of a sexual nature, whether by an acquaintance or by a stranger, that occurs without indication of consent of either/any of the individuals involved, or that occurs under threat or coercion. Sexual offenses include, but are not limited to, rape (also referred to as sexual assault in the State of Illinois), forcible sodomy, sexual assault with an object, fondling or kissing without consent, incest, statutory rape, and the threat of sexual assault. According to the Department of Justice and the FBI, rape is defined as "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 the consent of the victim.” This definition includes any gender of the victim or perpetrator, and includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity, including due to the influence of drugs or alcohol or because of age. Physical resistance from the victim is not required to demonstrate lack of consent.

**Sexual Harassment** is a form of sex discrimination prohibited by Title IX and Title IV. Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, request for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Examples include:

- making unwelcome sexual advances for sexual favors and other verbal or physical conduct of a sexual nature as a condition of an employee’s continued employment, or a student’s academic status;
- making submission to or rejections of such unwelcome conduct the basis for employment or academic decisions affecting an employee or student; or creating an intimidating, hostile or offensive working or education environment by such conduct, which prevents an individual from participating in a program or activity.

**Sexual Orientation-Based Harassment** includes verbal, non-verbal and physical acts of aggression, intimidation, or hostility based on an individual’s actual or perceived heterosexuality, homosexuality, bisexuality, or trans sexuality. Use of the term “sexual harassment” throughout this policy includes sexual orientation-based harassment/misconduct.

**Gender-Based Harassment** includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. Use of the term “sexual harassment” throughout this policy includes gender-based harassment/misconduct.

**Dating and Relationship Violence** means acts, threats, or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other. These acts may be directed toward a spouse, an ex-spouse, a current or former boyfriend or girlfriend, or a current or former dating partner.

**Domestic Violence** is defined as a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

**Incapacitation** is the physical and/or mental inability to make informed, rational judgments that voids an individual’s ability to give consent. Incapacitation may be caused by a permanent or temporary physical or mental impairment. Incapacitation may also result from the consumption of alcohol or the use of drugs.

**Coercion** is an unreasonable amount of pressure to engage in sexual activity, the practice of persuading or forcing someone to do something by use of force or threats.

**Sexual Exploitation** is taking sexual advantage of another person without effective consent. This includes, but is not limited to, causing the incapacitation of another person for a sexual purpose, causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images of another person, or allowing third parties to observe sexual acts.

**Stalking** is defined as harassing or threatening another person to the point where that individual fears for his/her safety or the safety of his/her family. Stalking can occur in various forms including, but not limited to, in person, through third parties, and electronically (phone, internet, social media, texting, etc.).

## **RETALIATION**

Title IX prohibits retaliation. It is a violation of Title IX and CAAN's policy for any person or group to retaliate against, interfere with, coerce or take any other adverse action against a person or group (student, faculty member, staff member, visitor,) that: 1) reports sexual misconduct; 2) seeks advice concerning sexual misconduct; 3) assists or supports another individual or group that reports sexual misconduct; or 4) participates as a witness or in the investigation of a sexual misconduct report.

Retaliation includes threats, intimidation, and reprisals. CAAN Academy will take immediate and responsive action to any report of retaliation. An individual reporting sexual misconduct is entitled to protection from retaliation following a report that is made in good faith, even if the report is later not proven. Any individual or group that violates this policy is subject to disciplinary or remedial action, which can include expulsion from CAAN, termination of employment, and may also be subject to criminal and/or civil action.

CAAN Academy recognizes a respondent can also be the subject of retaliation by the complainant or other third party and the same protections against retaliation are afforded the respondent.

## **AMNESTY FOR STUDENTS**

CAAN Academy of Nursing strongly encourages the reporting of sexual misconduct. Therefore, it is important to remove any barriers that would prevent someone from reporting any type of sexual misconduct. Keeping this in mind, any individual who may have participated in the consumption of alcohol or use of drugs at the time of the incident may hesitate to make a report due to possible consequences for partaking in said activity. CAAN will not hold the individual (complainant, witness or reporter) subject to the CAAN's disciplinary process and/or sanctions solely for their participation in the consumption of alcohol or use of drugs.

## **DEFINITION OF CONSENT**

Consent is defined as a clearly and freely given word or overt action confirming a willing desire to move forward with a specific sexual request, act, or experience. Consent cannot be obtained from individuals who have a temporary or permanent mental or physical incapacity, including being under the influence of drugs or alcohol or because of age.

Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused does not constitute consent. Consent can be withdrawn at any time. Someone who is incapacitated cannot consent.

Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. The manner of dress of the victim at the time of the offense does not constitute consent. Consent to sexual activity can be withdrawn at any time.

**Absence of "NO" should NEVER be interpreted as "YES".**