

Definitions of Consent

BCIT:

An active, direct, voluntary, and conscious choice and agreement to engage in physical contact or sexual activity. It is the responsibility of the initiator of physical contact or sexual activity to obtain consent at all stages of mutually acceptable sexual engagement. More specifically, consent is not silence or the absence of no; cannot be assumed or implied; cannot be given by an individual incapacitated by alcohol, drugs, or some other reason, and/or who is unconscious, or otherwise incapable of providing consent; is not present if the impaired judgement on the part of the initiator leads them to think or believe there was consent; can be revoked at any time, regardless of previous sexual activities or agreements; can never be obtained through abuse, threats, intimidation, coercion, harassment or other pressure tactics; cannot be obtained if the initiator abuses a position of trust, power or authority; cannot be assumed from previous consent to similar activities or agreements; and is required regardless of the relationships status or sexual history of the parties.

LANGARA:

In this policy, agreement to engage in sexual or sexualized activity. Consent must be active, direct, ongoing, informed and voluntary.

CAP:

“Consent” means an active, direct, voluntary, and conscious choice and agreement between adults to engage in physical or sexual activity. It is the responsibility of the person initiating or pursuing physical or sexual activity to obtain consent at all stages of physical or sexual engagement. More specifically, consent:

3.6.1. is a freely given “yes”;

3.6.2. cannot be assumed or based on a perception that it was implied;

3.6.3. cannot be given by someone who is incapacitated (by drugs and/or alcohol), asleep, unconscious, or otherwise incapable of providing consent;

3.6.4. can be removed at any time, regardless of whatever other physical or sexual activities have taken place;

3.6.5. can never be obtained through threats, intimidation, coercion or other pressure tactics;

3.6.6. cannot be obtained if someone abuses a position of trust, power or authority, and

3.6.7. cannot be assumed from previous consent to physical or sexual activities

TRU:

The voluntary agreement to engage in the sexual activity in question and to continue to engage in the activity. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct and can be revoked at any point. Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity, and consent only applies to each specific instance of sexual activity. No consent is obtained where a person is incapable of consenting, for example, by intoxication, or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.

Definitions of Consent

UBC:

Be implied, which means it must be affirmatively given and cannot be assumed by an individual's silence or inaction. The initiator of a sexual activity is responsible for obtaining consent for that sexual activity. Consent can be withdrawn by any party at any time during the sexual activity through words or actions, and if consent is withdrawn the sexual activity must stop. Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity, and consent given only applies to each specific instance of sexual activity. Neither the relationship status of the parties nor past consent to sexual activity gives or implies future or ongoing consent. Individuals cannot give consent if they are not able to appreciate the nature of the sexual activity, or to appreciate the risks and consequences of the sexual activity, or are otherwise unable to choose whether to engage in the sexual activity. For example, an individual is incapable of consenting if the individual is:

- (a) asleep or unconscious;
- (b) unable to consent due to ingestion of drugs or alcohol; or
- (c) under the legal age of consent as defined in the Canadian Criminal Code. Evidence that an individual's judgment was impaired by alcohol or drugs is a relevant consideration for determining whether the individual consented to the sexual activity in question. A Respondent's mistaken belief, formed due to intoxication or impairment from drugs or alcohol, that there was consent is not a defense to the allegation of Sexual Misconduct. A person's sexual reputation or history of sexual activity cannot be submitted as evidence to prove that it was likely that consent had been given. Even if sexual activity occurs outside of the class of Prohibited Relationships, there is an inherent risk that consent is not voluntary whenever there is a relationship of trust or authority in which there is an imbalance, or perceived imbalance of power. Where there is an allegation of Sexual Misconduct in these relationships the nature of the relationship will be a significant factor in determining whether there was consent.

<https://students.ubc.ca/campus-life/consent>

UNBC:

Active, direct, voluntary, unimpaired, and conscious choice and agreement between adults to engage in sexual activity. The use of drugs or alcohol does not provide any relief from these required elements of consent. If any person involved in sexual activity is under the influence of drugs or alcohol, consent is not valid. Further explanation regarding consent is found in the following points:

- i. Consent cannot be obtained if an individual abuses a position of trust, power, or authority.
- ii. Consent is never assumed or implied.
- iii. Consent can never be obtained through coercion or threats.
- iv. Consent cannot be given if the persons involved are impaired by alcohol or drugs, are unconscious, or incapable of consenting to the activity. This includes a person who does not have the mental or physical capacity to give consent, for example due to that person being impaired by alcohol or drugs, asleep or unconscious, experiencing a traumatic response, or being otherwise unable to communicate clearly.
- v. Consent is not silence or the absence of the word "No."
- vi. Consent must be given at the outset and at all stages of physical contact or sexual activity.
- vii. The Criminal Code age of consent is 16 years of age. A child under the age of 12 is never able to give consent.

UVIC:

“Consent” means the voluntary agreement to engage in sexualized contact or activity and to continue to engage in the contact or activity. Consent means that all persons involved demonstrate, through words or actions, that they freely and mutually agree to participate in a contact or activity. More specifically:

- (a) Consent must be given at the outset and at all stages of sexualized contact or activity;
- (b) it is the responsibility of the initiator to obtain ongoing Consent;
- (c) Consent can be withdrawn at any time by any participant;
- (d) someone who is Incapacitated cannot Consent; 2
- (e) there is no Consent where one person abuses a position of trust, power, or authority over another person;
- (f) past Consent does not imply future Consent;
- (g) a person cannot give Consent on behalf of another person;
- (h) silence or the absence of “no” is not Consent;
- (i) the absence of perceived resistance is not Consent; and
- (j) there is no Consent when there is coercion, force, threats, or intimidation towards any person, or where there is fraud or withholding of critical information that could affect a person’s decision to Consent.

SENECA:

The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour and requires that a person is able to freely choose between two options: yes and no.

This means that there must be an understandable exchange of affirmative words, which indicates a willingness to participate in a mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent
- A person is incapable of giving consent if they are asleep, unconscious, or otherwise unable to communicate
- A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it
- A person who is drugged is unable to consent
- A person is unable to give consent when under the influence of alcohol and/or drugs
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts
- The fact that consent was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for all future sexual activity
- A person can withdraw consent at any time during the course of a sexual encounter
- A person is incapable of giving consent to a person in a position of trust, power or authority, such as a faculty member initiating a relationship with a student who they teach, an administrator in a relationship with anyone who reports to them
- Consent cannot be given on behalf of another person.

It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement. It is also the initiator’s responsibility to know if the person they are engaging with sexually is a minor.

For information purpose only

The *Criminal Code of Canada* defines “consent” as “the voluntary agreement to engage in the sexual activity in question.” No consent is obtained where:

- The agreement is expressed by the words or conduct of a person other than the complainant
- The complainant is incapable of consenting to the activity
- The accused induces the complainant to engage in the activity by abusing a position of trust, power or authority
- The complainant expresses, by words or conduct, a lack of agreement to engage in the activity, or
- The complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

EVABC:

Consent is an agreement to engage in a sexual activity. It must be fully voluntary, clearly communicated, and ongoing. All sexual activities that are Campus Sexual Violence: Guidelines for a Comprehensive Response 20 engaged in must be consented to: if there is consent given for a particular sexual activity, this consent does not automatically extend to other sexual activities. Consent can be withdrawn at any time, including during a sexual activity that had previously been consented to. As defined by Canadian law [Criminal Code s. 273.1], consent is “the voluntary agreement ... to engage in the sexual activity in question.” Consent does not legally exist if: • Sexual activity is agreed to by someone other than the persons directly involved, • The person is incapable of consenting to the sexual activity (for example, because they are under the influence of alcohol or drugs), • An abuse of power, authority, or trust is used to coerce the victim/survivor to engage in sexual activity, or • One party expresses (through their words or their conduct) a lack of agreement to engage in the activity. • The person, having consented to engage in sexual activity, expresses by words or conduct a lack of agreement to continue to engage in the activity. According to s. 265(3), no consent is obtained where the person submits or does not resist because of: • The application of force to the complainant or to someone other than the complainant; • Threats or fear of the application of force to the complainant or someone other than the complainant; • Fraud; or • The exercise of authority.

Pursuant to the new provincial legislation in BC, post-secondary sexual violence policies will of necessity address a range of sexual misconduct. The terminology used should be consistent with legal definitions and should also be informed by a contextual understanding of the power dynamics and potential risks involved.

https://endingviolence.org/wp-content/uploads/2016/05/EVABC_CampusSexualViolenceGuidelines_vF.pdf