

Sexual Assault Definitions, NC State Policy & Law

What is Rape?

Though rape has varying definitions based upon state statutes, a general definition defines rape as sexual penetration without **consent**, including both psychological coercion and physical force of the vagina, anus and mouth by any object, finger or penis. Both males and females can be raped and perpetrate rape.

- Under North Carolina law, however, the term rape only refers to penile penetration of the vagina. All other forms of unwanted penetration (as described above) are referred to as sexual offenses.

What is Sexual Assault?

Sexual assault is an umbrella term describing any form of unwanted physical sexual contact including touching of the breasts, buttocks, vagina, penis or anus in which **consent** is not given. This term includes rape.

What is consent? How do I know if I have it?

Consent is explicit approval to engage in sexual activity demonstrated by clear actions or words. This decision must be made freely and actively by all participants. Non-verbal communication (i.e. pushing someone away or moving your body away from someone), silence, passivity, or lack of active resistance does not imply consent. In addition, previous participation in sexual activity does not indicate current consent to participate and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent has *not* been obtained in situations where the individual:

- Is forced, pressured, manipulated, or has reasonable fear that they will be injured if they do not submit to the act.
- Is incapable of giving consent or is prevented from resisting due to physical or mental incapacity, which includes, but is not limited to, the influence of drugs or alcohol.* **This includes drugs such as GHB, Rohypnol and Ketamine that are often used to facilitate sexual assault and rape.**
- Has a mental or physical disability which inhibits his/her ability to give consent Sexual Misconduct

NC State's Code of Conduct States:

14.1.16 Sexual Misconduct

Rape, other sexual offenses, and sexual assault will result in severe sanctions from the University as well as possible criminal prosecution. These categories include:

- a. Forcing someone to have vaginal intercourse, engage in other sexual acts such as oral or anal intercourse, digital penetration, or penetration by an object.
- b. Sexual contact without full and free consent given by the person (including situations where drugs or alcohol impair a person's ability to give full and free consent); and/or
- c. Sexual contact when the perpetrator knows or should know the behavior is offensive to the person; and/or
- d. Sexual contact when the perpetrator knows the person is unaware of the sexual contact; and/or
- e. Sexual contact when the person is less than the statutory age of consent.

Commentary: If a person is forced to have sexual intercourse or if the person is unable to consent, the behavior of the perpetrator is considered rape. Forcing someone to engage in other sexual acts such as oral, anal, or digital penetration are also felonious offenses. The force necessary is any amount or threat of physical force which places the person in fear of injury or in fear for his or her life. The perpetrator does not need to use a weapon or beat that person to make him or her fearful of injury or for his or her life. The perpetrator may be someone known to the victim. Forced, unwanted sexual intercourse with a person you know, sometimes referred to as acquaintance rape, is still rape under the law. A social or dating relationship which began prior to the rape is not a defense against charges of rape. Sexual contact is defined but not limited to touching an erogenous area such as a breast, thigh, or buttocks with the intent of arousing either person and may also include any of the sexual acts listed in this section. Consent to sexual activity must be explicit either verbally or by overt action. If a person says "no," subsequent sexual contact with that person may constitute both a crime under State law and misconduct under this Code.

NC Law

Definitions for rape vary greatly per state and within varying campuses and communities.

The State of North Carolina Statute defines rape as "Vaginal intercourse by force, without consent, or with a victim whom the perpetrator knows is mentally disabled, mentally incapacitated or physically helpless." Force includes both psychological coercion and physical force

In North Carolina, criminal sex offenses include, but are not limited to, such things as rape, statutory rape, sexual offense, peeping, sexual harassment, stalking, cyber-stalking, and

indecent exposure (North Carolina Coalition Against Sexual Assault, 2007). This definition includes anal and oral penetration as well as vaginal penetration with a finger or object.