

**Student Regulations Committee**  
**Minutes**  
**September 16, 2014**

**Present:** Al Ferri (chair), Richard Barke, Gordon Kingsley, Joe Montoya, Chuck Parsons, Bill Schafer, Laura Burbach, Marc Canellas,

**Guests:** John Stein, Peter Paquette, Kathleen Gosden, Bob Butera

The meeting was opened at 12:05 PM.

1. The minutes for the September 4<sup>th</sup> meeting of the committee were discussed and approved unanimously.
2. The committee spent the remainder of the meeting discussing changes to the wording of the Student Sexual Misconduct policy. These changes involved the usage of the terms “impaired” and “incapacitated” in the parts of the Student Sexual Misconduct Policy that related to consent.

The proposed changes are highlighted below:

**Georgia Tech Policy on Student Sexual Misconduct**  
**September 16, 2014 Proposed Changes**

**PROPOSED CHANGE #1: Definition of Consent**

(3 instances)

*“Consent”* consent means informed, freely and actively given, mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity. Consent is not effectively given if the agreement results from the use of physical force, threats, intimidation, or coercion. Consent is absent when a person has sexual contact with another when the initiator knew, or reasonably should have known, that the other person(s) is ~~impaired~~incapacitated.

**What Consent Means**

- o Consent begins when individuals decide together to do the same thing, at the same time, in the same way, with each other. It is the responsibility of the initiator, or the person who wants to engage in the specific sexual activity, to make sure that he or she has consent from his or her partner(s).
- o Consent to one form of sexual activity does not necessarily imply consent to any other form of sexual activity.
- o The initiator must obtain consent at every stage of sexual interaction.
- o Consent will exist when both of these standards are met:
  - o a reasonable person would consider the words or actions of the parties to have manifested an agreement between them to do the same thing, in the same way, at the same time, with one another; and

- o the Student believed in good faith that the words or actions of the parties to have manifested an agreement between them to do the same thing, in the same way, at the same time, with one another.
- o Consent may never be given by ~~impaired-incapacitated~~ persons.
  - o ~~Impairment-Incapacitation~~ refers to the victim's inability to understand the situation, understand the consequences of his/her choices, or to express his/her desires. This may include, but is not limited to, intoxication, being under the influence of drugs, unconsciousness, or other cognitive impairment, or being under the age of consent in accordance with Georgia state law.

## **PROPOSED CHANGE #2: Definition of Coercion**

(1 instance)

**Coercion:** The intentional use of force or intimidation (i.e. threats) to obtain compliance for an otherwise unwanted act. Coercion may be determined by the repetition of the activity beyond what is reasonable, the degree of pressure applied, or environmental factors such as isolation or the initiator's knowledge of ~~impairment-incapacitation~~ by alcohol and/or other drugs.

Examples may include, but are not limited to:

- Repeatedly providing alcohol drinks to a victim or potential victim
- Isolating a victim or potential victim
- Providing false information to entice a victim or potential victim

Ms. Kathleen Gosden from the GT Office of Legal Affairs gave an overview of the proposed changes to the wording and why they were needed. She explained that, although the word “impaired” was used in the document, the Institute had been operating in its investigations using a criterion that was more accurately defined by the term “incapacitated.” Thus, there was no proposed change to the policy. The wording change would adjust the written policy to reflect the current practice. Peter Paquette confirmed that this is the standard that he uses when investigating sexual misconduct charges against GT students.

The committee asked for clarification on what sort of process is used during a sexual misconduct investigation. Peter Paquette explained that in addition to statements from the accused and of the victim, the investigation gathered eyewitness accounts, as well as communication in the form of text messages, emails, and posts to social media. Title IX requires that these investigations be completed within 60 days. Ms. Gosden and Mr. Paquette also explained that the campus investigation often runs parallel to criminal and/or civil investigations, but that the campus investigation usually moved at a quicker pace because of the Title IX requirement.

The committee discussed the differences between the legal standards for incapacitated vs impaired, and why the legal definition of the word impaired made it inappropriate as it was being used in the originally worded policy.

It was emphasized that incapacity was a special case within the broader issue of non-consent. If a victim is found to have been incapacitated, than it is clear that there was no consent and the accused will be found responsible. However, even if

the victim is not incapacitated, it may still be the case that there was no consent. The issue of whether the victim and/or the accused are impaired by drugs or alcohol may be relevant to the investigation, but is not a deciding factor in the determination of culpability.

Concern was raised about how the policy and its changes, including the interpretations of the conditions allowing for consent, will be communicated to the students. It is absolutely critical to the implementation of this policy that the communication about it and the changes to it be made clear and distributed widely. Without an effective education effort, the nuances discussed at this meeting will only exacerbate the problems with putting a coherent and consistent sexual violence policy into practice

**After all questions had been answered, a motion was made and seconded to accept the changes to the wording of the GT Sexual Misconduct Policy. The motion passed unanimously.**

3. The committee was reminded of the remaining meeting times of the GT Student Regulations Committee this semester:

Thursday, October 2, 12:00 PM, Room 203 Student Services Building

Thursday, November 6, 12:00 PM, Room 203 Student Services Building

Thursday, December 4, 12:00 PM, Room 203 Student Services Building

**The Spring dates will be reconfirmed in December:**

Thursday, January 8, 2015, 12:00 PM, Room 203 Student Services Building

Thursday, February 5, 2015, 12:00 PM, Room 203 Student Services Building

Thursday, March, 5, 2015, 12:00 PM, Room 203 Student Services Building

Thursday, April 2, 2015, 12:00 PM, Room 203 Student Services Building

Thursday, May 7, 2015, 12:00 PM, Room 203 Student Services Building

The meeting adjourned at approximately 12:55 PM.

Submitted by,  
Dr. Al Ferri, Chair