SEXUAL ASSAULT

Sexual assault is actual, attempted, or threatened sexual contact with another person without that person’s consent. Sexual assault is a criminal act that can be prosecuted under Minnesota state law.

CONSENT

Consent means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent must be informed and freely and actively given.

Consent is not present when the other person:

- Is impaired by the use of alcohol or drugs
- Fears the consequences of not consenting
- Feels threatened or intimidated
- Is coerced (compelled to submit through intimidation, threats, misuse of authority, manipulation, tricking, or bribing with actions and words)
- Says no, either verbally or physically (e.g., crying, kicking or pushing away)
- Is not an active participant in the activity
- Is below the legal age of consent (16 in Minnesota)
- Has a disability or mental impairment that prevents the person from making an informed choice
- Lacks full knowledge or information of what is happening

We must conceptualize sexual activity as a choice and as consensual. Consensual sexual activity involves the presence of the word “yes” without incapacitation of alcohol or other drugs, pressure, force, threat, or intimidation. Consent is about saying “yes” much more than it is about not hearing “no”.

Breaking down what CONSENT means:

1. OVERT ACTIONS: Both parties are clearly expressing, through their actions, a desire to participate in the sexual activity. Keep in mind that a lot of overt actions like kissing, sexual touching, and partial nudity, while being overt, may only communicate that your partner wants to get physical, without engaging in specific sexual activity. Consent must be present for each type of sexual activity. Consent for one level of sexual contact does not mean the person is giving consent for more advanced sexual contact.

2. WORDS: While this may sound obvious, the word you’re looking for is in the family of “yes.” Think about it. The alternative is waiting for someone to scream, “No! You’re hurting me!” It’s way more empowering to hear the positive stuff. More importantly, when someone is being very quiet and passive during any sexual activity that you’ve initiated, it’s your responsibility to find out why, and stop if you find out they’re confused or don’t want to continue.
3. **FREELY GIVEN:** This can sometimes be hard for some people to figure out. Thoughts like, “Well, I’m not being violent, so I guess the “yes, do this,” is freely given. That’s not always the case. “Freely given” means that you’re not threatening or intimidating the person you want to have sex with in ANY way. Intimidation takes many forms. For some people, having a person larger than them be on top of them can be very scary; other people are intimidated by a partner who refuses to stop pushing for sex, even when they say that they are not interested. Keep in mind that the act of successfully wearing someone down and breaking their spirit is not getting consent. And while this last part should be obvious, threatening your potential partner, or their friends or family, if they fail to have sex with you, is not only bad behavior – it is also illegal.

*The bottom line: Both of you must have the option to choose to be intimate or not - this means you should be free to change “yes” to “no” at any time. If your “partner” allows the act because they are intimidated or scared in any way, you don’t have consent.*

4. **THE PRESENT:** This means on your date, right now. It doesn’t matter if the two of you went all the way yesterday, or this morning, or ten minutes ago. You and your partner make new sexual agreements as they happen OR don’t happen. If your partner doesn’t want to have sex when you do, you don’t have consent.

5. **A PARTICULAR SEXUAL ACT:** There’s a helpful phrase to keep in mind – just because your partner was willing to engage in some sexual activity, doesn’t guarantee they want to have other kinds of sexual contact with you. You have got to be solidly sure that they want to do each and every thing you come up with.

6. **THINK YOU’RE GETTING “MIXED MESSAGES?”** Sometimes the person you’re messing around with may say “no”, but you’re confident with how they’re responding physically that they could mean, “yes.” This is what makes guessing about consent a tricky thing. If you feel that the person is sending you some contradictory signals, it’s even more important than ever that you stop and check in as to what they want.

Just because it’s clear to you what “will happen next” on your encounter, doesn’t mean it’s clear to the other person. Rape is not a penalty for stupidity. Regardless of how drunk and stupid any person may be, NO ONE deserves to be violated.

“We were both really wasted” doesn’t constitute consent. While some state laws vary, they’re all in agreement that any person who is mentally incapacitated or physically helpless cannot consent to a sexual act. **That means any drunk person, any drugged person, and any sleeping person cannot legally consent to have sex with you. PERIOD.** It’s sometimes hard to tell when someone is drunk so when in doubt, don’t go ahead with sexual intimacy. If you’re drunk, it’s harder for you to understand whether you have consent.