

**WAC 174-123-360 Title IX definitions.** For purposes of the supplemental Title IX student conduct procedure, the following terms used have the definitions contained in the Title IX policy and procedure and the terms below are defined as follows:

(1) **Consent** means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

Consent cannot be obtained by force or coercion. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats or intimidation (words or actions that cause an individual to submit to or comply with sexual contact or intercourse due to fear for their safety and/or implied threats) that overcomes free will or resistance. Coercion is unreasonable pressure for sexual contact or sexual intercourse. When someone makes clear to another person by word or action that they do not want to engage in sexual contact or intercourse, that they want to stop, or that they do not want to go past a certain point of sexual contact or intercourse, continued pressure beyond that point is coercive.

(2) **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

(3) **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

(4) **Formal complaint** means a writing submitted by the complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the college conduct an investigation.

(5) **Education program or activity** includes locations, events, or circumstances over which Evergreen exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. It also includes any building owned or controlled by a student organization officially recognized by the college.

(6) **Determination of responsibility** means a decision of the hearing panel regarding whether the respondent is responsible for the alleged violation(s) of this Title IX policy. If the respondent is found responsible for the alleged violations, the determination of responsibility will include discipline and sanctions, as appropriate.

(7) **Interim suspension** means a temporary exclusion from enrollment, including exclusion from college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, pending investigation and resolution of disciplinary proceedings pursuant to the procedure and standards set forth in WAC 174-123-200(2).

[Statutory Authority: RCW 28B.40.120(12). WSR 21-10-022, § 174-123-360, filed 4/26/21, effective 5/27/21.]