

UNDERSTANDING CONSENT

The Association of Title IX Administrators (ATIXA), www.atixa.org, provides the following guidance concerning consent in its Model Policy:

For individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent does not imply consent to sexual activity in the future. Silence or passivity -- without actions demonstrating permission -- cannot be assumed to show consent. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Seduction versus coercion

There's a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex. An unwelcome advance that results in a welcome encounter is seduction. An unwelcome advance that results in an unwelcome encounter is coercive. Often, the question revolves around how to determine after the fact if the encounter was unwelcome, and that will largely depend on what the contextual evidence shows. Society defines seduction as reasonable, and coercion as unreasonable.

Both involve convincing someone to do something you want them to do, so how do they truly differ? The distinction is in whether the person who is the object of the pressure wants or does not want to be convinced or is okay with the convincing once it happens. In seduction, the sexual advances are ultimately welcome. You want to do some convincing, and the person who is the object of your sexual attention wants to be convinced. Twist my arm, I'll go along. Two people are playing the same game. Coercion is different because you want to convince someone, but they make it clear that they do not want to be convinced. They do not want to play along. They do not want to have their arm twisted. You're change your mind, both toward consent and away from it. The evaluation of coercion, however, focuses on the actions of the person applying the pressure, as well as how that pressure is received.

Whether something is coercive turns on four factors:

- *Frequency*: Asking to have sex 3 times in 30 minutes vs. 30 times in 30 minutes. The frequency of coercion can be enhanced easily via technology.
- *Intensity*: A person talking themselves up ("I'm the best there ever was") is obnoxious, not coercive. When the person turns on you and starts to attack your character, values and morals, there is a difference in intensity ("Do you want to be the last virgin on earth? No one will find out, I won't tell anyone...").
- *Isolation*: Making advances at a crowded bar is going to be less coercive than when the advances occur when two people are alone in someone's living room.
- *Duration*: Making advances for 30 minutes vs. making advances for 3 hours.

Alcohol or other drugs

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, “No” always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “no.”