

Taken from the Calvin College Student Handbook
APPENDIX D
CALVIN COLLEGE SEXUAL ASSAULT POLICY

Introduction

Sexual assault is an attack on personal dignity, an impediment to educational goals, and a violation of both biblical precepts and criminal law. Calvin College affirms its commitment to maintaining a learning and living environment which is fair, respectful, and free of sexual assault.

Sexual Assault is Prohibited

Calvin College does not tolerate any acts or threats of sexual assault or physical assault whether directed at males or females, someone known or unknown (including date or acquaintance rape), which involves use of force or coercion, without consent or when a person is incapable of consent. (Student Conduct Code, Article IV.B.4.) The College prohibits all sexual behavior that is an abuse of power, status, or influence over another. Untolerated conduct includes behavior defined by the Criminal Sexual Conduct Law (CSC) for the State of Michigan and other relevant laws of sexual abuse or indecency. Being under the influence of alcohol or drugs does not absolve the perpetrator of personal responsibility for his/her actions. (See Appendix E)

Any person in this College community in violation of this policy is subject to disciplinary action and sanctions of the College, notwithstanding any action that may or may not be taken by civil authorities.

Definition of Sexual Assault

Sexual assault refers to any sexual act without the explicit consent of the recipient of the behavior. In some cases, this may involve force. Force may include, but is not limited to, the use of or display of a weapon, physical battering or immobilization of the other person. Consent shall be defined as the act of willingly and verbally agreeing to engage in specific sexual contact or conduct. Psychologically pressuring or coercing an individual or any attempt to take advantage of an individual under duress or when incapable of making a decision on his or her own is a direct violation of the policy. This includes situations in which an individual is under the influence of alcohol, drugs and/or prescribed medications.

The College's Response

Calvin College hereby affirms its commitment to promote relevant educational efforts and programs, publicize clear procedures for victims, and respond to reports of sexual assault with appropriate procedures of discipline.

- I. Educational Efforts and Programs
 - A. Educational programs on rape prevention are offered for first year students and other on-campus residents each academic year. Material covered includes procedures to follow if a sexual offense occurs, the importance of preserving evidence, and to whom the offense may be reported. Periodically

rape prevention programs are also presented to commuter students and to those attending off-campus interims and semester programs.

- B. A course of women's self-defense is offered for credit by the HPERDS Department. Also, all students must take PE 104 which includes a unit on rape and date rape.
- C. Brochures on rape and acquaintance rape are available in Health Services, and the Broene Counseling Center. Similar information is available on-line at calvin.edu.
- D. A comprehensive and detailed guide entitled "In Case of Sexual Assault: What You Need to Know" is available on-line at http://www.calvin.edu/admin/broene/sapt/in_case_of_sexual_assault.htm. This brochure addresses medical examination and collection of evidence, police contact and what prosecution involves, the process of bringing charges through the college disciplinary procedure, telling family and significant others, and seeking professional counseling. It also lists campus and community resources.
- E. Information regarding Calvin's Sexual Assault Prevention Team (SAPT) is posted on-line at <http://www.calvin.edu/admin/broene/sapt/>. Further information on the SAPT, personal safety, and response to rape are available on-line in the Student Handbook (http://www.calvin.edu/admin/student_life/forms_policies.htm).
- F. Books, videos, and other educational materials are available in the Broene Counseling Center and in the Hekman Library.. These speak to a range of sexual offenses including stranger rape, acquaintance rape, and sexual harassment.

II. Rights and Options for Victims of Sexual Assault

- A. The victim of sexual assault is urged to utilize the Broene Counseling Center or an off-campus agency of his/her choice such as the YWCA Sexual Assault Program.
- B. Calvin College affirms the right of the victim of sexual assault to make a report to appropriate on-campus and/or off-campus authorities and conveys this to each victim.
- C. Calvin College encourages the victim of sexual assault to report the incident to the Dean of Judicial Affairs and to consider campus action if the perpetrator is another student or Calvin employee. In some situations such as date rape, the victim may fear being blamed or disciplined for the rape if, for example, he/she had been drinking. However, the Student Life Division is committed to sensitive and fair handling of such situations with healing, safety of others, and justice as primary concerns.

III. Procedures for Campus Action

- A. The student considering formal charges of sexual assault against another student may seek counsel from their Resident Director, any Student Life Dean, or any of the counselors in the Broene Counseling Center regarding procedures and options. He or she may wish to consult the Student Conduct

Code regarding disciplinary procedures. Complaints may be filed with the Dean of Students for Judicial Affairs.

- B. The complainant and the accused both have rights which include, among others, the following:
 1. The right of the complainant to request consideration of a change in living arrangements or other modifications to avoid forced contact with the accused.
 2. Both the complainant and the accused are entitled to be accompanied by a current member of the Calvin community (faculty member, staff, or student) who can provide support during the disciplinary proceedings.
 3. Both the accused and the complainant have the right to be informed in a timely manner of the disposition of the case.
- C. The college's burden of proof is based on the preponderance of evidence rather than beyond a reasonable doubt which is required for a conviction on criminal charges.
- D. Sanctions for sexual assault can extend over the entire range of sanctions, including expulsion or suspension from the college, depending on the severity of the offense. (Student Conduct Code, Art. V. E. Sanctions)

Criminal Sexual Conduct (CSC) Law for the State of Michigan

The essence of Michigan law is summarized below:

Stated as - "Use of force or coercion to penetrate oral, vaginal, or anal body cavity of a person who has not consented or is incapable of consent."

1. Force or Coercion -

Force is the physical overpowering of another individual which results in a sexual experience.

Coercion is the manipulation of another individual which results in a sexual experience. For example:

- Talking someone into having sex
- Using alcohol as a tool to break down sexual reluctance
- Threatening to harm someone
- Not letting someone leave a room and/or locking a door so they can't leave

2. Penetration -

Penetration does not just refer to the penis being penetrated in the vagina. The law states that **any** body cavity, as listed above, that is penetrated by another body part (fingers, for example) or an object is illegal.

3. Consent -

Consent is a clear, freely given, **verbalized** "yes" to the sexual experience. The absence of "no" is not consent. Furthermore, a verbalized "yes" which has been coerced, as in the examples above, does not constitute a freely given "yes". In such cases, consent has not been given, and one who continues to have a sexual experience without this consent potentially could be charged with a Criminal Sexual Conduct charge.

Three reasons a person cannot give consent

1. An individual cannot consent to a sexual experience if they are under the influence of alcohol and/or other drugs according to the law. A person is not considered to be of "sound mind and body" and therefore, cannot consent **legally** to a sexual experience.
2. An individual who is 15 years of age or under is considered a minor under this law and is not considered **legally** able to consent to a sexual experience. If an individual 16 yrs. or older engages in a sexual experience with someone 15 yrs or younger, that is **Statutory Rape** regardless of whether the minor agreed to the experience or not. A parent or legal guardian of the minor can press charges against the adult even if the minor consented to the experience.
3. An individual who is legally determined to be mentally-handicapped is not capable of consenting to a sexual experience according to the CSC law for Michigan.

Four Degrees of CSC for the State of Michigan

1. **First Degree - Felony**
Includes **penetration** and **aggravation**. Aggravation is any personal injury to the victim other than the penetration itself. This could include any physical injury occurring to the victim or any emotional trauma or mental anxiety the victim experiences as a result of the incident.
2. **Second Degree - Felony**
Includes **sexual contact** and **aggravation**. Sexual contact is any touch of sexual nature which has not been consented to (touching, fondling, etc.). It includes touching someone's butt, a female's breasts, grabbing a guy's penis.
3. **Third Degree - Felony**
Penetration only.
4. **Fourth Degree - Misdemeanor**
Sexual contact only. This includes grabbing/touching a female's breasts, or grabbing a guy's penis. This is against the law whether or not penetration or aggravation occurred.

A complete detail of the Michigan law can be found at
<http://www.courts.michigan.gov/mji/resources/sabb/sabb.htm>