

ICC Austin

Sexual Assault Policy

As approved by the Executive Director, and incorporating all changes through:

January 11, 2017

Revision History

Date	Author(s)	Summary of Changes
January 2017	Lassiter	Policy creation

Review History

Date	Reviewed by

External Cross-references

Section(s)	Policy/Section Referenced
	Judicial Committee Policy
	Conflict Resolution & Member Review Policy

Introduction

ICC Austin is committed to fostering environments for people of all identities to thrive and be able to fully participate in their communities. Every member of ICC Austin should be aware that ICC Austin prohibits sexual harassment and sexual assault, and that such behavior violates state and federal law, University of Texas Student Code of Conduct, and ICC Austin policy. ICC Austin will respond promptly and effectively to reports of sexual assault, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior, up to and including immediate contract termination, that violates this policy.

This policy is intended to provide an avenue for ICC Austin members who are victims of sexual assault to take action within the ICC Austin community. ICC Austin encourages victims of sexual violence to seek professional support. The decision to report to the police and/or University officials is solely at the discretion of the survivor.

Definitions

- **Sexual harassment** – unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment may occur in person, via text message, and/or online including email and social media – both public and private messaging. Sexual harassment is conduct that explicitly or implicitly affects or interferes with a person’s work or educational performance; and in the context of ICC Austin, creates a house environment such that a reasonable person would find the conduct intimidating, hostile or offensive. Sexual harassment includes sexual violence (definition below). Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of the same sex or opposite sex.
- **Sexual violence** – physical sexual acts engaged without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault (definition below), rape, battery, sexual coercion, domestic violence, dating violence, and stalking (definition below).
- **Sexual assault** – engaging in sexual intercourse or nonconsensual sexual touching, including oral penetration, with any person without that person’s consent (definition below) or when the other person is unable to consent to the activity. Sexual intercourse is the penetration, however slight, of the vagina or anus with any object or body part. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person’s intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person’s incapacitation (including voluntary intoxication).
- **Consent** – unambiguous and willing participation or cooperation in act or attitude that is commonly understood to be consistent with the exercise of free will. Consent requires participants who are fully conscious, are equally free to act, have clearly communicated their

willingness, cooperation, or permission to participate in a specific sexual activity, are positive and clear in their desires, and are able to cease ongoing consensual activity at any time. Refusal to consent does not have to be verbal; it can be expressed with gestures, body language or attitude. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. A prior sexual history between the complainant and respondent does not constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

Consent is voluntary and is not freely given if:

1. It is obtained through the use of force, through the fear of or the threat of force, intimidation or by kidnap; or
 2. A reasonable person in the position of the alleged perpetrator at the time the alleged conduct occurred should have known that the other person was unable to give consent for any of the following reasons:
 - The individual is unable to make an informed decision as a result of alcohol or other drugs (including but not limited to predatory drugs or prescribed medications); or
 - The individual is unconscious, asleep, or suffering from shock; or
 - The individual is under the age of seventeen (per Texas law) and therefore legally unable to give consent; or
 - The individual has a known mental disorder or developmental or physical disability, and therefore legally unable to give consent.
 3. The individual has acted or spoken in a manner which expresses they refuse to give consent.
- **Incapacitation** - the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, unconsciousness, sleep, and blackouts. Where alcohol, drugs or other medication are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affects a person's decision-making capacity, awareness of consequences, ability to make fully informed judgments, and inability to communicate. Being intoxicated by drugs, alcohol or other medication does not absolve one's responsibility to obtain consent. The factors to be considered when determining whether consent was given include whether the accused knew, or whether a reasonable person should have known, that the complainant was incapacitated.
 - **Stalking** - a course of conduct directed at a specific person that would cause a reasonable person to feel fear. A course of conduct is a pattern of behavior composed of two or more acts over any period of time. Stalking can happen to anyone of any race, age, sexual orientation, religion or gender and can affect every aspect of a victim's life.

Policy

1. ICC Austin prohibits sexual harassment, sexual violence and sexual assault. Consent must be given/obtained prior to all instances of sexual activity.
2. ICC Austin will provide training and resources regarding consent to all members, at a minimum, through New Member Education, New Member Orientation, House Officer Training, the ICC Austin Book of Answers, and on the ICC Austin website.
3. ICC Austin members that have been victim to sexual assault may choose one of three options take action within the ICC Austin community.
 - a. Proceed with a Judicial Committee hearing as outlined below (Sexual Assault Policy).
 - b. Submit a signed and notarized statement to ICC Austin staff. This statement should include the name of the perpetrator, date and approximate time of the event, and a brief description of what happened. Upon receipt of a notarized statement, ICC Austin staff will take action per section 4.3 of the Member Resident Agreement.
 - c. Call a member review and follow the process outlined in the Conflict Resolution & Member Review Policy.
4. Upon notification that a member would like to take action per the Sexual Assault Policy, the Membership Director or Executive Director will begin the procedures for a Judicial Committee Hearing.
5. Every reasonable and appropriate effort will be taken to protect the privacy of all individuals involved in an incident of sexual assault. However, ICC Austin cannot guarantee absolute confidentiality. Members concerned about confidentiality, should seek confidential resources. See Appendix A for a list of resources in the Austin area.
6. All those involved in a Judicial Committee Hearing including committee members, conflict mediators, the complainant, the respondent, witnesses and staff are expected to tell the full and complete truth in all hearing matters.
7. ICC Austin recognizes that a member who has been sexually assaulted may need temporary housing accommodations. It is the member's responsibility to obtain and secure accommodations as needed. ICC Austin will provide, up-to, a \$350 reimbursement for temporary housing. Receipt of payment for accommodations must be submitted to ICC Austin staff in order to be refunded.

Procedure – Judicial Committee Hearing for Sexual Assault

1. Interview with the Complainant
 - a. After receiving notification of that a member wants to proceed with a Judicial Committee hearing, the Membership Director or Executive Director, hereafter referred to as the Director, will notify the Judicial Committee of an impending hearing.
 - b. Within 24 hours of receiving the notification, the complainant will be assigned a trained conflict mediator to assist with the hearing process. A complainant may decline the help of a conflict mediator.

- c. Within 48 hours of receiving the notification, the Director will meet with the complainant, and respective conflict mediator if desired by complainant, to discuss the Judicial Committee Hearing procedures and to collect the following information (intake meeting):
 - i. Name of the complainant
 - ii. Name of the person who is alleged as having perpetrated sexual assault
 - iii. What specific behavior or comments occurred
 - iv. Where and when did it occur
 - v. What was the response at the time, if any
 - vi. Names of witnesses, if any
 - vii. Ideal outcome of the complainant
 - d. After the intake meeting, the complainant will review the statement to ensure accuracy and will sign/date the statement to verify their approval.
 - e. Within 72 hours after the intake meeting, the complainant's conflict mediator will submit witness statements to the Director for inclusion in the Judicial Committee Hearing packet.
 - i. The Conflict Mediator is responsible for reminding all witnesses about the importance of confidentiality and privacy.
- 2. Interview with the Respondent**
- a. Within 72 hours (or the next business day) of meeting with the complainant, the Director will schedule a meeting with the respondent. The Director will (intake meeting):
 - i. Inform the respondent of the charges and date/location of the alleged violation. The respondent will not have access to the complainant's full statement.
 - ii. Record and transcribe the respondent's the testimony for the Judicial Committee Hearing packet.
 - iii. If the respondent fails to cooperate in scheduling a meeting or does not show for the meeting with the Director, the Judicial Committee may move forward without the respondent's testimony.
 - b. Within 24 hours of the intake meeting, the respondent will be assigned a trained conflict mediator to assist with the hearing process. A respondent may decline the help of a conflict mediator.
 - c. Within 72 hours after the respondent's intake meeting, the respondent's conflict mediator will submit witness statements to the Director for inclusion in the Judicial Committee Hearing packet.
 - i. The Conflict Mediator is responsible for reminding all witnesses about the importance of confidentiality and privacy.
- 3. Preparation of Evidentiary Report**
- a. The Director, with the help of both conflict mediators, will compile an evidentiary report for the Judicial Committee. All identifying information will be removed from the report. The report will include:
 - i. Brief summary of case
 - ii. The complainant's statement
 - iii. The respondent's response
 - iv. Witness statements as available
 - v. Ideal outcome from the complainant

- b. To maintain the highest level of confidentiality, the report will be provided to the Judicial Committee in print format and only available during the hearing.
- c. Complainant and respondent may view the full report after the Judicial Committee Hearing and only at the ICC Austin office. Electronic copies will not be provided.

4. Judicial Committee Hearing

- a. After receiving notification of an impending hearing, the Judicial Committee will coordinate a hearing date. The hearing shall be set for at least one week after, but no more than two weeks from, the initial notification date.
- b. At least 72 hours prior to the hearing, the complainant and respondent will be notified of the hearing and receive a list of committee members presiding over the hearing.
 - i. If either the complainant or respondent disapprove a Judicial Committee hearing member, this must be made known to the Director at least 48 hours before the hearing so a replacement member may be found.
 - ii. Neither the complainant or respondent may attend the hearing.
- c. The Judicial Committee Hearing will be conducted in Executive Session with only the Committee Members and the Director present.
- d. The hearing will proceed as follows:
 - i. Review of the Evidentiary Report
 - ii. Q & A to clarify information provided in the report
 - iii. Deliberations and considerations of outcomes
 - 1. If the Judicial Committee determines that sexual assault occurred, the default outcome will be membership revocation. The only circumstance in which consideration will be given for alternative outcome is if the complainant has requested restorative justice measures.
- e. The Director and the Judicial Committee Chair shall notify the complainant and respondent of the outcome of the hearing in writing within 24 hours.
- f. The Director is responsible for ensuring the committee's decision is implemented.
- g. The Conflict Mediators, respectively, will follow-up with the complainant and respondent to ensure they understand the decision as well as collect feedback about the process.
- h. Judicial Committee decisions are final.

5. Restorative Community Building

- a. ICC Austin recognizes that any instance of sexual violence can be harmful to an entire community and may significantly disrupt house operations. Staff will monitor member morale and work with the house Trustee to ensure the emotional needs of the house are met. This may include connecting the house with outside resources, such as SAFE, arranging for professional mediation services, or other assistance as requested by the house.

APPENDIX A - Confidential Resources

If you are in immediate danger or need urgent medical care, dial 9-1-1.

SAFE Austin Confidential Hotline	512-267-SAFE (7233)
National Domestic Violence Hotline	1-800-799-SAFE (7233)
Austin Crisis Intervention	512-472-HELP (4357)
UT Nurse Advice Line	(512) 475-NURS (6877)
UT Crisis Line	512.471.CALL (2255)
Love Is Respect	1-866-331-9474