What is Sexual Assault?

Sexual assault is a crime and it includes any form of sexual contact that occurs without consent and/or through the use of force, threat of force, intimidation, or coercion. Sexual assault can be committed even when the victim has not given or is unable to give consent.

Forms of Sexual Assault

• "Stalking" is a pattern of behavior directed at a specific person that would cause a reasonable person to feel fear or emotional distress. Examples can include following a person, appearing at a person's home or place of business, sending repeated and/or harassing calls or messages.

• "Domestic violence/intimate partner" includes felony or misdemeanor crimes of violence committed by an intimate partner or former intimate partner of the victim. An Intimate partner can include persons legally married to one another, persons who have a child in common, regardless of whether such persons are married or have lived together at any time, it also includes same sex couples.

• "Dating violence" occurs when violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

What is Sexual Harassment?

Sexual harassment is unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with your work or academic performance. It includes unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature on or off campus.

Have I Consented?

There is a lack of consent in the following instances:
1. By forcible compulsion including the use of physical force or threats;
2. Incapacity to consent on the part of the victim;
3. Circumstances in which the victim does not expressly agree or did not give an implied agreement with the actor's conduct; and
4. When the victim clearly expressed by words or actions that he or she did not consent.

A person is deemed incapable of giving consent if she/he is (a) under the age of 17, (b) mentally incapacitated (including incapacity due to ingestion of alcohol or drugs), (c) physically disabled or physically helpless (asleep, unconscious or for any other reason physically unable to communicate unwillingness to act, which may also include incapacity due to the victim’s ingestion of alcohol or drugs).

How can I minimize the risk?

Communicate

• Communicate your sexual desires and limits clearly. If you feel uncomfortable about a behavior, someone is crossing your boundaries. Verbal cues are the most direct way to let someone know your limits.
• Be assertive and direct. Forget about being nice if you feel threatened. You have the right to protect yourself.
• Say what you are thinking, what you really want. Be an active partner in relationships and share decisions about what to do, where to meet and when to be intimate.
• Never take silence as consent. If you feel you are getting double messages, speak up and ask for clarification.
• Accept a person’s decision. Respect the word “no”.

Assess
• Trust your instincts. If you feel uncomfortable or think you may be at risk, leave the situation immediately and go to a safe place.
• Exercise caution when dating.
• Avoid anyone who puts you down, is physically violent or does not respect you or your decisions.
• Do not assume that a person wants to have sex just because they are drinking heavily, dressed in a particular manner, or agrees to go home with you.
• Do not assume that if a person agrees to kissing or other sexual intimacies, that they are also willing to have sexual intercourse.
• Know your limits when using alcohol or other drugs.

Where can I report a violation?
Title IX Coordinator-Ilyana Titus
Room S701  212-220-1236
Director of Public Safety-Ed Moss
Room S215  212-220-8075
Vice President of Student Affairs-Marva Craig
Room S350  212-220-8130
Counseling Center
Room S330  212-220-8140

We also encourage you to report all cases involving any form of sexual violence and/or stalking to the NYPD.

What happens after a complaint is made?
Student complaints are investigated by the Title IX Coordinator with the assistance of Public Safety and Student Affairs. Students are also encouraged to report all incident of sexual assault to NYPD. Public Safety will help you make the report. Where appropriate the college will implement security measures to keep you and the campus community safe. Assistance can consist of class reassignment, counseling and security escort.

What are the disciplinary procedures at BMCC?
Students
If after an investigation, it is determined that a student engaged in sexual harassment/sexual assault, disciplinary charges will be brought by the college.

If disciplinary charges are brought, a hearing will be held before the Faculty-Student Disciplinary Committee, where each side will have the right to be present and have an advocate present. During the hearing, the college representative presents the evidence, including witnesses’ testimony against the accused. The college must prove the alleged misconduct by a preponderance of the evidence. Both parties are notified of the outcome of the hearing in writing.

Employees
If it is determined that an employee engaged in sexual harassment and or sexual assault, the College will take all necessary steps to pursue discipline in accordance with the procedures in the applicable contract. Procedures for imposing discipline for many employees are governed by their labor contract or Board of Trustee policy.

What are possible penalties for sexual assault/sexual harassment violations?
For students-probation, suspension, expulsion
For employees-reprimand, suspension or termination of employment

Below is a list of crimes and criminal penalties

RAPE IN THE FIRST DEGREE (PL § 130.35)
A person is guilty when he or she engages in sexual intercourse with another person by forcible compulsion, with a person who is incapable of consent by reason of being physically helpless (e.g. being asleep, unconscious or due to alcohol or drug consumption), who is less than 11 years old or less than 13 and the actor is 18 or older. Is a class B felony, with penalties up to 25 years in prison.

RAPE IN THE SECOND DEGREE (PL § 130.30)
A person is guilty when being 18 years old or more, he or she engages in sexual intercourse with another person less than 15, or with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. Is a class D felony, with penalties up to 7 years in prison.

CRIMINAL SEXUAL ACT IN THE FIRST DEGREE (PL § 130.50)
A person is guilty when he or she engages in oral sexual contact or anal sexual contact with another person by forcible compulsion, or with someone who is incapable of consent by reason of being physically helpless, or with someone less than 11 or with someone less than 13 and the actor is 18 or older. Is a class B felony, with penalties up to 25 years in prison.

FACILITATING A SEX OFFENSE WITH A CONTROLLED SUBSTANCE (PL § 130.90)
A person is guilty when he or she knowingly and unlawfully possesses a controlled substance or any substance that requires a prescription to obtain to another person, without such person’s consent and with intent to commit against such person conduct constituting a felony, and commits or attempts to commit such conduct constituting a felony defined in Article 30. Is a class D felony, with penalties up to 7 years in prison.

Sexual Abuse in the First Degree (PL § 130.65)
A person is guilty when he or she subjects another person to sexual contact: by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the person is less than 11 years old. Is a class D felony, with penalties up to 7 years in prison.

Aggravated Sexual Abuse in the First Degree (PL § 130.70)
A person is guilty when he or she inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person by forcible compulsion, when the person is incapable of consent by reason of being physically helpless, or when the person is less than 11. Is a class B felony, with penalties up to 25 years in prison.

Aggravated Sexual Abuse in the Third Degree (PL § 130.66)
A person is guilty when he or she inserts a foreign object in the vagina, urethra, penis or rectum of another person by forcible compulsion, when the person is incapable of consent by reason of being physically helpless, or when the person is less than 11. Is a class D felony, with penalties up to 7 years in prison.

FORCIBLE TOUCHING (PL § 130.52)
A person is guilty when he or she intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor’s sexual desire. Is a class A misdemeanor, with penalties up to 1 year in jail.