

It's My Prerogative: Consent and Healthy Sexuality for People with Disabilities

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ELEVATUS TRAINING

LEADERS IN SEXUALITY AND DEVELOPMENTAL DISABILITY

Learning Objectives

- Review statistics on sexual violence against people with disabilities;
- Define the current messages and information people with disabilities receive about sex;
- Explore how those messages and information contribute to a lack of safety and self-autonomy;
- Discuss sexual self-advocacy as a way to increase safety and self-autonomy;
- Review the role consent plays in safe and autonomous sexual relationships.

People with Disabilities and Sex: A Lack of Safety and Autonomy

People with Disabilities are More Likely to Experience Sexual Violence

- People with I/DD are at a higher risk of being abused
 - 2.5-10 times more likely, NPR statistics state 7 times more likely
 - 90% will experience abuse at some point in their lifetime
 - 15,000-19,000 raped each year in the US

More Likely to Experience Violence

- People with I/DD are more likely to experience repeated abuse
 - 49% had experienced 10 or more incidences of abuse
 - More likely to be abused if have profound disabilities, a higher level of support, and dependent on services
 - 96% of case were perpetrated by someone the person knows

Less Likely to Report Violence

- People with I/DD are less likely to report.
 - When live in congregate settings, 85% go unreported
- Less likely to lead to prosecution or conviction.
 - 70% of serious crimes against people without disabilities were prosecuted
 - Only 5% of serious crimes against people with disabilities

Some Reasons Why

- Denied education about healthy sexuality and relationships;
- Denied the ability to make decisions about their relationships;
- Negative and ableist messages regarding sexuality and relationships;
- Perceived as less credible when reporting violence.

Chat

What messages do people with disabilities receive about sexuality?

Messages People with Disabilities Receive

- They are not sexual beings
- They don't like sex
- They can't have sex
- They should not have sex
- They are innocent and childlike and need protection from sexuality
- They are not responsible
- They can not solve problems
- They are unable to make good decisions about sexuality
- They always make mistakes
- They would not make good parents so should not have children

Chat

What Impact do These Messages Have?

What Impact do These Messages Have?

Worried and fearful

Feel that sexual feelings are shameful and wrong

Stop asking questions and getting the support they may need

Stop reporting abuse because of lack of support

Loneliness

Unhealthy sexuality and increase of abuse

Give Positive, Supportive Messages about Sexuality and Healthy Relationships

Sexual Self-Advocacy: A Tool for Safety and Autonomy

What is Sexual Self-Advocacy?

“Speaking for yourself, sexually”

“Getting information”

“Taking a stand”

“Saying to whomever – this is my choice”

“Stating your sexual limits and desires with your partner, respecting others’ limits and desires”

“Starting to do what you want with relationships”



Need for Sexual Self-Advocacy

- Sexual self-advocacy ensures that
 - Individuals with disabilities have the tools and information they need to make safe and healthy choices;
 - Individuals with disabilities understand the differences between “good” relationships and “bad” relationships;
 - They understand consent and the importance of consent in relationships.

Helping People Become Sexual Self-Advocates

How Can We Help People Become Strong Sexual Self-Advocates?

Human sexual development and the need to teach healthy sexuality

Discuss issues of consent:

Giving and getting consent

Ability to consent



Tips and resources for communicating about sexuality and relationships

Importance of Teaching Healthy Sexuality

- Demonstrates that all people are sexual beings, not just those who are non-disabled, heterosexual, young, etc.
- Gives a positive message, not just abuse prevention
- Helps people with disabilities be healthy sexually-in relationships that are positive and enriching
- Includes social skills training-being part of the community
- Reduces unplanned pregnancies, sexually transmitted infections, and abuse

Consent

- In order to be a sexual self-advocate, a person with a disability must have a firm understanding of consent.
- What they should know: a person is *always* allowed to say yes or no to sex, and self-advocates need to know that they have the choice.

Consent: Definitions for Self-Advocates

**CONSENT IS
EVERYTHING**

- You must ask first
- Both people must say YES
- Sexual acts should feel good to both people
- You can say NO at any time
- Giving consent once does not mean the answer is always yes
- Remember: if you are not sure – ASK!

More About Consent

There are actually two steps or two questions to ask.

Did the person say “yes”?

Was it freely chosen?

There can be no pressure. No lies. No force, no threats.

“If you don’t have sex with me, I will break up with you”

“If you don’t have sex with me, I will tell everyone that you did”

“I love you and will never leave you”

Holding a person down or using a weapon to make them have sex.



Two Yes = Consent

Did the person say "yes"?		If yes, was it freely chosen?		
Yes	+	Yes	=	Consent
Yes	+	No	=	Not Consent
No	+	No	=	Not Consent

The Legal Definition of Consent

There is no one definition of consent. Instead, each state sets its own definition in its laws. In general, there are some features that are present in nearly every statute:

- **Freely given consent:** Was the consent offered of the person's own free will, without being induced by fraud, coercion, violence, or threat of violence?
- **Capacity to consent:** Did the individual have the capacity, or legal ability, to consent?

Consent Statutes and People with Disabilities

- Language in statutes could inadvertently categorize people with disabilities as “incapacitated” or “mentally impaired”
- Under consent based statutes, when a person is considered mentally impaired, it is deemed that there was no consent
 - But are people with disabilities actually “incapacitated” or “mentally impaired?” What is the criteria?
- This issue arises in criminal cases – especially when a guardian/ parent believes there was a sexual assault

Legal Issues and Consent Laws TN

There is a lack of consent if a person engages in a sexual act with another person by forcible compulsion or with a person who is incapable of consent because he or she is physically helpless, mentally defective or mentally incapacitated.

Legal Issues and Consent Laws TN

(2)

“Mentally defective” means that a person suffers from a mental disease or defect that renders the person: incapable of understanding the nature and consequences of a sexual act; or unaware a sexual act is occurring.

“Mentally incapacitated” means that a person is temporarily incapable of appreciating or controlling the person’s conduct as a result of the influence of a controlled or intoxicating substance: administered to the person without the person’s consent; or that renders the person unaware a sexual act is occurring.

“Physically helpless” means that a person is: unconscious; physically unable to communicate a lack of consent; or rendered unaware that a sexual act is occurring.

Consent Laws in New York

- State of NY, deems all people with I/DD as non-consensual.
- In order to be deemed “consensual,” individuals have to pass an assessment.
- The assessment is a test on sexuality information, not on whether the person has the ability to make their own decisions.
- Controversial for many

Affirmative Consent and Disability

- Affirmative consent in some states requires *verbal, express* consent
- Not always possible for people with certain types of disabilities (alternative communication methods)

What if a Person Cannot Give Verbal Consent?

Positive Consent (YES)

- Positive body language
- Leaning in
- Smiling
- Pulling you closer
- Sign language “yes”
- Nodding “yes”

Negative Consent (NO)

- Pulling away
- Crying
- Not responding to your touch
- Turning his/her face away
- Arms wrapped around body
- Sign language “no”
- Shaking head “no”

Consent Laws That Consider People with Disabilities

- Consider the relationship and power dynamics between the parties involved
 - Service provider, medical provider, or person of authority?
- Do not place the burden on the person with the disability to prove they have capacity to consent – presumption of competence
- Prevent unnecessarily invasive court inquiries

Tips and Resources

- Give positive messages
- Use inclusive language
- Okay not to know all the answers
- Okay to answer later
- Okay to feel embarrassed
- Give facts and a range of opinions unless you are the parent
- Get useful resources

Resources for Talking to Self-Advocates About Sex

- 22 Lesson Curriculum
- Online staff training
- Online parent workshop
- Live trainings/in-services
- www.elevatustraining.com
- kath@elevatustraining.com

Training for 2018

Becoming a Sexuality Educator and Trainer

- Worcester, MA, Sept. 19-21st
- Atlanta, GA, Oct. 17-19th
- Denver, Colorado, Nov. 28-30th



Questions?

Thank you!

Thank you for participating in today's webinar. Before you leave, please complete a brief [survey](#).