

STUDENT SEXUAL MISCONDUCT POLICY

Sexual Harassment/Misconduct Policy

Broward College Policy 5.39 (http://www.broward.edu/legal/policies-and-procedures/_docs/policy/6hx2-5.39.pdf)

General Statement

Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. Title IX states that: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

The College is committed to creating a safe educational environment for all students, faculty, and staff. Sexual misconduct of any kind will not be tolerated.

Issues involving Respondents who are not members of our College community (such as vendors or visitors) should be reported promptly in the same manner provided for in this Policy and accompanying procedure.

Sexual misconduct includes instances where consent cannot be given (e.g., student's age, or use of drugs or alcohol, or other disability). All students, faculty and staff are afforded protections from sexual misconduct and any hostile work or education environment resulting from such sexual misconduct, regardless of the sex, sexual orientation, or gender identity of either the alleged Complainant or Respondent, including when both are members of the same sex.

The College fully supports and complies with all state and federal laws related to sexual misconduct and will report allegations of sexual misconduct to appropriate law enforcement agencies in accordance with applicable law and subject to confidentiality provisions outlined in the procedure accompanying this policy and in applicable state and federal law.

The College offers primary and ongoing programs to prevent and promote awareness of sexual misconduct, including but not limited to information about safe and positive options for bystander intervention and how to avoid potential assaults.

Sexual misconduct is not permitted at Broward College International Centers in accordance with the Code of Conduct.

Prohibition of Sexual Misconduct

College faculty, College staff and students are prohibited from engaging in sexual misconduct.

Implementation and Oversight

The President has the authority to establish procedures to implement this policy. The College's Title IX Coordinator is responsible for the development and review of this policy and compliance with this policy and its accompanying procedures, including the grievance process set forth in Procedure A6Hx2-5.39. College faculty and staff who are designated as "Officials with Authority" as defined below have an obligation to participate in mandated training and report allegations of sexual misconduct to the Title IX coordinator in accordance with the procedure accompanying this policy.

Violation of Policy

The College will take prompt and appropriate action to end any conduct that interferes or limits a student's ability to participate in or benefit from the College's programs. All complaints and investigations of sexual misconduct will be kept confidential as possible and to the extent allowed by law.

The College will provide supportive measures to Complainants and Respondents in accordance with the procedure accompanying this policy and, as required by 34 C.F.R. § 106.45, by following the grievance process set forth in Procedure A6Hx2-5.39 before the imposition of any disciplinary sanction or other actions against a Respondent with respect to a complaint alleging sexual misconduct.

Definitions

The terms used in this policy are defined below and shall be deemed to include consistent or comparable definitions contained in any applicable federal, state or local law.

Complainant – an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment or Sexual Misconduct.

Consent - an affirmative indication of a voluntary agreement to engage in the particular sexual act or conduct in question. Consent cannot be obtained through coercion, force, threat, or intimidation. Consent cannot be given by someone who is not able to effectively communicate or to understand the nature of the conduct being engaged in or is otherwise incapacitated as a result of drugs or alcohol, or for any other reason. Silence or absence of resistance on the part of an individual does not imply consent. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time, even during sexual interactions. Consent to one form of sexual activity does not imply consent to other forms of sexual activity or as further defined in Florida Statutes.

Dating Violence - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on a consideration of the following factors:

1. the length of the relationship;
2. the type of relationship; and
3. the frequency of interaction between the persons involved in the relationship.

Domestic Violence - a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under applicable domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under applicable domestic or family violence laws of the State of Florida or other applicable law.

Official with Authority - An Official with Authority is a College employee with authority to address Sexual Harassment/Misconduct by instituting corrective measures on behalf of the College.

With respect to allegations Sexual Harassment/Misconduct in which the Respondent is an employee or holds any employment status (including employed students), Officials with Authority are: the Title IX Coordinator, the Executive Director of Talent and Culture, the District Director of Employee Relations, and the Senior Analyst – Employee Relations.

With respect to allegations of Sexual Harassment/Misconduct in which the Respondent is a student, Officials with Authority are: the Title IX Coordinator, the Dean of Students (on any campus), the District Director (Student Conduct & Integrity), and a Student Conduct Specialist.

Respondent – an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment or Sexual Misconduct.

Retaliatory Action – any materially adverse action taken against the person who makes or supports a complaint of Sexual Harassment/Misconduct.

Sexual Assault – an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation or sexual assault or battery under Florida law.

Sexual Harassment – conduct on the basis of sex that satisfies one or more of the following:

1. an employee of Broward College conditioning the provision of an aid, benefit or service of Broward College on an individual's participation in unwelcome sexual conduct;
2. unwelcome conduct determined by a person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Broward College's educational programs or activities; and
3. Sexual Assault, Dating Violence, Domestic Violence or Stalking as defined in this Policy.

Sexual Misconduct - for the purposes of this policy, sexual misconduct serves as an umbrella term, which includes, but is not limited to, the various offenses defined in this policy.

Sexual Violence - Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). Several different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

Stalking – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

Unwelcome sexual conduct - any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which:

1. makes submissions to or rejection of such conduct either an explicit or implicit basis for admissions and/ or academic decisions affecting the individual or
2. unreasonably interferes with the individual's education or academic performance by creating an intimidating, hostile, or offensive environment.

Conduct that falls into the definition of unwelcome includes but is not limited to:

- Unwelcome physical contact of a sexual nature such as patting, pinching, or unnecessary touching.
- Overt or implied threats against an individual to induce a person to perform sexual favors or to engage in an unwelcome sexual relationship.
- Verbal innuendos or jokes of a sexual nature, including graphic or degrading verbal comments about an individual and/or their appearance.
- Use of sexually suggestive terms or gestures to describe a person's body, clothing, or sexual activities.
- Displaying or posting offensive, sexually suggestive pictures or materials on campus.