

# Policy Manual



<b>Title:</b> Student Sexual Misconduct	<b>Number:</b> 6Hx2-5.39
<b>Legal Authority:</b> <i>Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.; 34 C.F.R. § 106.1 et seq.; Violence Against Women Act, 42 U.S.C. §§ 13925-14045; Fla. Stat. § 741, 784, &amp; 794</i>	<b>Page:</b> 1 of 4

## 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.

Broward College (“College”) is committed to creating a safe educational environment for all students, faculty, and staff. Sexual misconduct of any kind, including, but not limited to, sexual violence, domestic violence, dating violence, stalking, sexual harassment, or retaliation for reporting such offenses, will not be tolerated. Sexual misconduct also applies in instances where consent cannot be given (e.g. student’s age, or use of drugs or alcohol, or other disability). Students are afforded protections from sexual misconduct, and any hostile education environment resulting from such misconduct, regardless of the sex, sexual orientation, or gender identity of either the alleged perpetrator or complainant, 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 POLICY AND THE STUDENT

Students are prohibited from engaging in sexual misconduct.

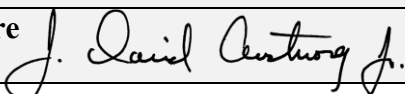
The College will provide prompt and ongoing support to student complainants in accordance with the procedure accompanying this policy.

The College offers primary and ongoing programs to prevent and promote awareness of dating violence, domestic violence, sexual assault, and stalking, to include, but not limited to information about safe and positive options for bystander intervention, and how to avoid potential assaults.

## THE POLICY AND THE FACULTY AND STAFF

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

College staff who are designated “Responsible Employees” as defined below have an obligation to participate in mandated training and report allegations of sexual misconduct in accordance with the procedure accompanying this policy.

<b>History:</b> <i>Adopted as Policy on October 28, 2014; revised August 11, 2015; revised January 23, 2018</i>			
<b>Approved by the Board of Trustees</b>	<b>Date:</b> 01/23/18	<b>President’s Signature</b> 	<b>Date:</b> 01/23/18

# Policy Manual



<b>Title:</b> Student Sexual Misconduct	<b>Number:</b> 6Hx2-5.39
<b>Legal Authority:</b> <i>Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.; 34 C.F.R. § 106.1 et seq.; Violence Against Women Act, 42 U.S.C. §§ 13925-14045; Fla. Stat. § 741, 784, &amp; 794</i>	<b>Page:</b> 2 of 4

## IMPLEMENTATION AND OVERSIGHT

The President has the authority to establish procedures to implement this policy. The Vice President for Student Services is responsible for the development and review of this policy. Responsibility for implementation and oversight of policy compliance is vested with the Dean of Students on the campus/center where the infraction is alleged to have occurred (or the student's main campus if the misconduct occurred off campus), in consultation with the Title IX Coordinator (Associate Vice President for Student Life & College Ombudsperson).

## 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.

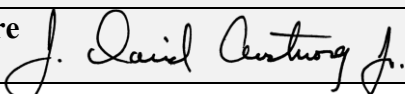
If the allegation involves misconduct on the part of a faculty or staff member, the incident will be investigated in accordance with College policy 6Hx2-3.31 – Sexual Harassment, and Sexual Violence. Employees who violate this policy are subject to discipline up to and including termination.

If the allegation involves misconduct on the part of a student, the incident will be investigated in accordance with College policy 6Hx2-5.02 – Student Code of Conduct. Students who violate this policy are subject to discipline up to and including expulsion from the College.

In all instances, regardless of the status of the alleged perpetrator (student, staff, or a person not affiliated with the College), the dean of students or designee will provide prompt and ongoing support to the student complainant in accordance with College procedures A6Hx2-5.39 – Sexual Misconduct and A6Hx2-5.02 – Student Code of Conduct, and College policy 6Hx2-5.32 – Student Assistance Program.

## DEFINITIONS

**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 having consumed 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.

<b>History:</b> <i>Adopted as Policy on October 28, 2014; revised August 11, 2015; revised January 23, 2018</i>			
<b>Approved by the Board of Trustees</b>	<b>Date:</b> 01/23/18	<b>President's Signature</b> 	<b>Date:</b> 01/23/18

# Policy Manual



<b>Title:</b> Student Sexual Misconduct	<b>Number:</b> 6Hx2-5.39
<b>Legal Authority:</b> <i>Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.; 34 C.F.R. § 106.1 et seq.; Violence Against Women Act, 42 U.S.C. §§ 13925-14045; Fla. Stat. § 741, 784, &amp; 794</i>	<b>Page:</b> 3 of 4

**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 would be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence would include, but would not be limited to, sexual or physical abuse or the threat of such abuse, or as further defined in Florida Statutes.

**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, 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, or as further defined in Florida Statutes.

**Responsible Employee** – All College full-time staff are designated as Responsible Employees in accordance with Title IX. Additionally, the following categories of part-time staff are also Responsible Employees: Part-time instructional faculty, athletic coaches, and security personnel.

**Retaliatory Action/** - any material adverse action taken against the person who makes or supports a complaint of sexual misconduct.

**Sexual Harassment** - 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 sexual harassment 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 him/her 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 his or her 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.

<b>History:</b> <i>Adopted as Policy on October 28, 2014; revised August 11, 2015; revised January 23, 2018</i>			
<b>Approved by the Board of Trustees</b>	<b>Date:</b> 01/23/18	<b>President’s Signature</b>	<b>Date:</b> 01/23/18

# Policy Manual



<b>Title:</b> Student Sexual Misconduct	<b>Number:</b> 6Hx2-5.39
<b>Legal Authority:</b> <i>Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.; 34 C.F.R. § 106.1 et seq.; Violence Against Women Act, 42 U.S.C. §§ 13925-14045; Fla. Stat. § 741, 784, &amp; 794</i>	<b>Page:</b> 4 of 4

**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). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

**Stalking** - conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

**History:** *Adopted as Policy on October 28, 2014; revised August 11, 2015; revised January 23, 2018*

**Approved by the  
Board of Trustees**

**Date:**  
01/23/18

**President's Signature**

**Date:**  
01/23/18