

PENSACOLA STATE COLLEGE
POLICIES OF THE DISTRICT BOARD OF TRUSTEES

Policy Title:	Sexual Misconduct	<u>Number</u> 6Hx20-1.028
Legal Authority:	s. 794.011, s. 800.03, Fla. Stat.	<u>Page</u> Page 1 of 3
Law Implemented:		

Pensacola State College prohibits sexual misconduct which includes but is not limited to sexual battery, domestic violence, dating violence, stalking, sexual harassment, voyeurism, or exhibitionism on any of its campuses. In addition, Pensacola State College may discipline students and College employees for acts of sexual battery, domestic violence, dating violence, stalking, sexual harassment, voyeurism, or exhibitionism committed off campus, if such acts are found to be detrimental to the interests of the College or to interfere with the educational and orderly operation of the College. These acts of sexual misconduct are defined as follows:

1. Sexual Battery

Oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. Sexual battery is an act performed against the victim's will and without consent. Sexual battery includes force that may involve physical violence, coercion, threat, or harm. (s. 794.011, Fla. Stat.)

2. Domestic Violence

Any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. (s. 741.28(2), Fla. Stat.)

3. Dating Violence

Violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- a. A dating relationship must have existed within the past six (6) months;
- b. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and

- c. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

4. **Stalking**

Willfully, maliciously, and repeatedly following, harassing, or cyberstalking another person. “Harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. “Cyberstalk” means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose. (s. 784.048, Fla. Stat.)

5. **Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of employment or academic decisions affecting the victim. It includes other verbal or physical conduct relating to sex when such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work or in study or creating an intimidating, hostile, or offensive environment in which to work or learn. (Title VII of the Civil Rights Act of 1964, Section 1601.00)

6. **Exhibitionism**

It shall be unlawful for any person to expose or exhibit his or her sexual organs in any public place or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner, or so to expose or exhibit his or her person in such place, or to go or be naked in such place. (s. 800.03, Fla. Stat.)

7. **Voyeurism**

The condition of one who derives sexual satisfaction from observing the sexual organs or acts of others generally from a secret vantage point. (Black’s Law Dictionary, 6th edition)

As used in this policy, the term “consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender. Consent cannot be granted by someone who is mentally defective, mentally incapacitated, or physically helpless. (s. 794.011(1)(a), Fla. Stat.).

The College’s Code of Student Conduct shall include sexual misconduct as an offense subject to disciplinary action. A student accused of an offense of sexual misconduct shall be entitled to the same rights of due process as students accused of other violations of the Code of Student Conduct. In all Student Conduct hearings, the preponderance of the evidence standard is used in determining outcomes.

The administration of the College shall adopt procedures for handling sexual misconduct cases, including the manner in which victims of sexual misconduct will be assisted which may include interim measures during the investigation and hearing process.

Retaliation including intimidation, threats, harassment, or other adverse actions threatened towards any person making a complaint of sexual misconduct or against any person (including a witness) cooperating in the investigation of any allegation of sexual misconduct is prohibited by the college. Retaliation should be reported promptly and may result in disciplinary action independent of allegations of sexual misconduct.

The administration shall also formulate and implement a comprehensive educational program to assure awareness of the problem of sexual misconduct, to discourage such acts, and to encourage reporting of such offenses to proper authorities.

Campus security shall be reviewed on an on-going basis, and increased if necessary, to minimize the threat of sexual misconduct on campus.

Inquiries or complaints may be addressed to the Associate Vice President, Institutional Diversity and Title IX Coordinator at (850) 484-1759, Pensacola campus, Administration Building 7, Room 705.

History:	Adopted 8/19/92; repromulgated 2/21/06; amended 6/26/12; amended 11/16/15.
President's Signature:	Date: 02/21/2017
	