

# Judicial Affairs

Fort Hays State University is committed to an environment in which students, faculty and staff are free from all forms of harassment, exploitation and intimidation.

It is the university's policy to prohibit harassment of individuals on the basis of their status as a member of a protected class, which includes race, color, religion, gender, age, national origin, marital status, sexual orientation, veteran status and physical or mental disability. The protections afforded by this policy apply equally to all university employees and students.

Harassment includes, but is not limited to, verbal, physical or written behavior directed toward or relating to an individual or group on the basis of their protected class status which has the purpose or effect of:

1. creating an intimidating, hostile or offensive work or educational environment;
2. interfering with an individual's work, academic performance, living environment, personal security or participation in university-sponsored activities;
3. threatening an individual's employment or academic opportunities.

Below are definitions of acts of gender-based violence and are used in determining cases of gender-based violence misconduct. The FHSU Gender-Based Violence Misconduct Policy can be found [here](#). For more questions or to report an incident of gender-based violence, contact the Title IX Coordinator, Amy Schaffer, at 785-628-4175 or fill out the [Incident Report It](#) form.

## DEFINITIONS OF GENDER-BASED VIOLENCE

### Consent

Consent means voluntary agreement by a person in the possession and exercise of sufficient mental capacity to make an intelligent choice to do something proposed by another.

- 
- Voluntarily given, consent is the presence of a 'yes' and not the absence of a 'no'. Consent is a positive, enthusiastic affirmation that both partners have mutually agreed to engage in any form of sexual activity.
- Consent to some sexual acts does not constitute consent to others and must be ongoing during the sexual encounter. An individual has the right to revoke consent at any time.
- Consent cannot be assumed or implied, even if you are in a relationship. Consent cannot be obtained if either party is asleep, mentally or physically incapacitated due to alcohol or drugs or other conditions.

### Sexual Harassment

Sexual harassment is unwelcome sexual - or gender-based verbal, written, online, and/or physical conduct. Sexual harassment creates a hostile environment and may be disciplined when it is sufficiently severe, pervasive, persistent, or objectively offensive that it:

- has the effect of unreasonably interfering with, denying, or limiting employment opportunities or the ability to participate in or benefit from the university's educational, social, and/or residential program, or is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

Some examples of possible sexual harassment include, but are not limited to:

- A professor insists that a student have sex with the professor in exchange for a good grade. This is harassment regardless of whether the student complies with the request.
- A student repeatedly sends sexually oriented jokes on an e-mail list the student created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.

### Sexual Assault

Non-consensual sexual contact is defined as any intentional sexual touching however slight with any object by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual or any other bodily contact in a sexual manner and includes incest and fondling.

### Sexual Assault With An Object

The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person forcibly and/or against that person's will; or where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

### Relationship Violence

**Domestic Violence** can occur between individuals who are current or former spouses, share a child, cohabiting a residence, a person similarly situated to a spouse or victim under the domestic or family violence laws of the jurisdiction receiving grant monies (under VAWA), or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Dating Violence** can occur between individuals who are or who have been in a social, romantic, or intimate relationship. The existence of such a relationship shall be determined based on consideration of the following factors:

- length of the relationship
- type of the relationship
- frequency of interaction between the persons involved in the relationship

Violence can occur between those in an intimate relationship (romantic, dating, or domestic). Examples of violence include, but are not limited to:

- Physical harm including hitting, pushing, restraining, beating, and any form of sexual violence.
- Psychological, emotional and verbal abuse in person or online via social media, emails, etc. These types of abuse often include displaying extreme anger, threatening a partner or harming his or her sense of self-worth. Examples include personal criticisms (name-calling, degrading comments), embarrassing on purpose, controlling behavior, isolating them from their family and friends, extreme or irrational jealousy, etc.

### Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another and the conduct does not fall within the definitions of sexual harassment, non-consensual intercourse, or non-consensual sexual contact. Examples of sexual exploitation include, but are not limited to:

1

- sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed)
- taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity
- exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent)
- engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infected
- administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge or consent

### **Stalking**

Engaging in a course of conduct directed at a specific person. The conduct is unwelcome and would cause a reasonable person to feel fear or suffer substantial emotional distress. Examples include, but are not limited to:

- sending multiple unwanted text messages, phone calls, or electronic communications;
- following, watching, photographing, or otherwise tracking an individual without his or her permission;
- sending unwelcome gifts, notes or other items to another person;
- cyber-stalking via social media or other forms of technology are also forms of misconduct.

### **Retaliation**

Retaliation is a violation of Federal law. All FHSU faculty, staff and students are prohibited from retaliating (including intimidating, threatening, coercing, or in any way discriminating against any individual) because of the individual's complaint or participation. If you feel you are experiencing retaliation, please contact the police (911) if it is an emergency or the Title IX Coordinator (785-628-4175).

### **Intimidation**

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

### **Rape**

Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth-to-genital contact.

## **DEFINITIONS OF PROCESS**

### **Proceeding**

The process of appearing before the conduct officer, so a decision can be made about an argument or claim. There are three types of proceedings, informal administrative hearing, formal administrative hearing, and student faculty court. Cases involving dating violence, domestic violence, sexual assault, rape, and stalking will only be heard through an informal or formal administrative hearing.

### **Result**

The result or decision is the consequence, effect or outcome of the proceeding.

### **Bystander Intervention**

Refers to the behavior of people, no matter the location, who witness a crime and respond. The response could include, but not limited to, calling the police, yelling for help, or asking if the victim needs assistance.

### **Ongoing Prevention and Awareness Campaigns**

Ongoing prevention and awareness campaigns that raise awareness throughout the academic year. Programs are designed to increase awareness of Title IX including: dating violence, domestic violence, sexual assault, rape, and stalking. Examples may include: programs, flyers, emails, class presentations, lectures, and other methods of communicating education, prevention, and response to violence, domestic violence, sexual assault and stalking.

### **Primary Prevention Programs**

Primary prevention programs focus on reducing factors that put an individual at risk for perpetration and by promoting factors that protect an individual from victimization.

### **Risk Reduction**

The focus of risk reduction is on potential victims. Meaning that most risk reduction strategies are targeted towards potential victims or bystanders who learn strategies to use in-the-moment, should an attack or attempted sexual assault happen. Some examples of risk reduction programs include blue safety lights on campus, self-defense classes, bystander intervention techniques, the buddy system, rape whistles, etc.