

Sexual Assault, Domestic Violence, Dating Violence, and Stalking Prevention and Response

A. Introduction

Sexual assault, domestic and dating violence, and stalking (collectively herein, "acts of violence or intimidation") are unacceptable and will not be tolerated at the College of Law. Any individual who has been the victim of an act of violence or intimidation is urged to make an official report. A report of an act of violence or intimidation will be dealt with promptly. Confidentiality will be maintained to the greatest extent reasonably possible.

The College of Law is committed to providing information regarding on- and off-campus services and resources to victims of acts of violence or intimidation. Any of the resources listed in this policy can assist a person to access the full range of services available.

B. Definitions

Acts of violence or intimidation include sexual assault, domestic violence, dating violence, and stalking.

Sexual assault is the commission of an unwanted sexual act, whether by an acquaintance or by a stranger, that occurs without indication of consent of both individuals, or that occurs under threat or coercion. Sexual assault can occur either forcibly and/or against a person's will, or when a person is incapable of giving consent. A person is legally incapable of giving consent if less than the age recognized by law, if intoxicated by drugs and/or alcohol, if developmentally disabled, or if temporarily or permanently mentally or physically unable to do so. Under federal and state law, sexual assault includes, but is not limited to, rape, forcible sodomy, forcible oral copulation, sexual assault with an object, sexual battery, forcible fondling (e.g., unwanted touching or kissing for purposes of sexual gratification), and threat of sexual assault. See Fla. Stat. 784.011 (assault), 784.046(c) (sexual violence), 794.011 (sexual battery).

Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, cohabitant, coparent, or person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law. Florida law defines domestic violence as "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." Fla. Stat. 741.28.

Dating violence means violence, including sexual or physical abuse or the threat of such abuse,

by a person who has been in a romantic or intimate relationship with the victim. The existence of such a relationship will be gauged by its length and type, frequency of interaction, and the reporting party's statement of such a relationship. Florida law defines dating violence as "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: 1. A dating relationship must have existed within the past 6 months; 2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and 3. 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. The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context." *Fla. Stat.* 784.046.

Stalking means a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress. A course of conduct includes a series of acts over any period of time. Stalking includes harassment and cyberstalking, either of which includes a course of conduct that causes substantial emotional distress to the victim and that serves no legitimate purpose. Stalking includes any credible threat to the victim that causes reasonable fear for the safety of the victim, the victim's family members, or others closely associated with the victim, regardless of whether the perpetrator actually intends to go through with the threats. See Fla. Stat. 784.048.

C. Reporting Offenses

If you are a victim of an act of violence or intimidation, your first priority should be to get to a place of safety. You should then obtain necessary medical treatment. The College of Law strongly advocates that a victim of an act of violence or intimidation report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. An act of violence or intimidation occurring on campus should be reported directly to the Public Safety Department at 727-343-1262. For programs abroad, report to the Resident Director. If you are at an off-site program, report to the highest-level College of Law official present. You may also report an act of violence or intimidation to the head of Student Life. Filing a security report with the College of Law will not obligate the victim to prosecute. Filing a report will:

- ensure that a victim of an act of violence or intimidation receives the necessary medical treatment and tests;
- provide the opportunity for the College of Law to assist in contacting law enforcement for the collection of evidence helpful in prosecution and in obtaining a protection order, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical-legal exam); and
- ensure the victim has access to free confidential counseling from counselors specifically trained in the area of crisis intervention regarding acts of violence or intimidation.

D. Confidentiality

The College of Law encourages victims of an act of violence or intimidation to talk to somebody about what happened – so victims can get the support they need, and so the College of Law can respond appropriately. This section is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of an act of violence or intimidation.

The College of Law will make every effort reasonably possible to preserve an individual's privacy and protect the confidentiality of information. The degree to which confidentiality can be protected, however, depends upon the professional role of the person being consulted. Different employees on campus have different abilities to maintain a victim's confidentiality.

1. Privileged and Confidential Communications

Some campus resources are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim's permission. Exceptions to maintaining confidentiality are generally set by law; for example, physicians, nurses, psychologists, psychiatrists, and social workers may be required to report some acts of violence or intimidation.

The College of Law utilizes the following professional counseling resources:

- For students, counseling is available through Eckerd College by contacting Eckerd directly at 727-864-8248 or through referral by the Office of Student Life.
- For employees, counseling is available through the Employee Assistance Program by contacting HorizonCareLink at (800) 272-7252.
- Stetson University Counseling Center (in DeLand), 1-386-822-8900

Other off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College of Law unless the victim requests the disclosure and signs a consent or waiver form. Following is contact information for these off-campus resources:

- Florida Council Against Sexual Violence (http://www.fcasv.org/)
- Rape Crisis Hotline, 1-888-956-RAPE (7273)

While these off-campus counselors and advocates may maintain a victim's confidentiality with the College of Law, they may have reporting or other obligations under state law.

Individuals who work or volunteer in the Stetson University Counseling Center, including front desk staff and students, can generally talk to a victim without revealing any personally identifying information about an incident to the College of Law. A victim can seek assistance and support from these individuals without triggering a College of Law investigation that could reveal the victim's identity or that the victim has disclosed the incident. While maintaining a

victim's confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of an act of violence or intimidation on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator. A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the College of Law will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to do so.

If the College of Law determines that the alleged perpetrator(s) pose a serious and immediate threat to the University community, a Campus Security Authority (a list of campus security authorities is included in section D.3. below), or one of the Associate Deans may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

2. Reporting to "Responsible Employees."

Some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX coordinator. A report to these employees (called "responsible employees") constitutes a report to the College of Law – and generally obligates the College of Law to investigate the incident and take appropriate steps to address the situation.

A "responsible employee" is a College of Law employee who has the authority to redress an act of violence or intimidation, who has the duty to report acts of violence or intimidation or other student misconduct, or who a student could reasonably believe has this authority or duty. When a victim tells a responsible employee about an act of violence or intimidation, the victim has the right to expect the College of Law to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator all relevant details about the act of violence or intimidation shared by the victim and that the College of Law will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College of Law's response to the report. A responsible employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement. The following employees (or categories of employees) are the College of Law's responsible employees:

Title IX Coordinators

- Coordinator: Shelia Daniels, Associate Vice President of Human Resources, 386-822-7472
- Deputy Coordinator: Tammy Briant, Director of Student Life, College of Law, 727-562-7850
- Deputy Coordinator: Pam Skoularakos, Director of Human Resources, College of Law, 727-562-7807

Dean and Associate Deans

- Christopher Pietruszkiewicz, Dean, 727-562-7809
- Michael Allen, Associate Dean for Academic Affairs, 727-562-7360
- Theresa Pulley Radwan, Associate Dean for Administration & Business Affairs, 727-562-7361
- Susan Rozelle, Association Dean for Faculty, 727-562-7321

Office of Public Safety, 727-343-1262

• Chief Don Howard, 727-562-7839

International Programs

- JR Swanegan, Director, 727-562-7857
- Resident Directors of any International Program

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources. If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the College of Law will consider the request, but cannot guarantee that the College of Law will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim's request for confidentiality.

Information shared with other individuals is not legally protected from being disclosed. For example, the Manager of Residential Properties, or other faculty or staff members may need to inform other individuals to protect those individuals' safety or rights, in fairness to the persons

involved, or in response to legal or institutional requirements. In addition, under the Clery Act, the College of Law is required by law to report specified factual details about incidents occurring on campus. These reports are for statistical purposes and do not include individual identities. The College of Law will maintain as confidential any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality does not impair the ability of the institution to provide the accommodations or protective measures.

3. Requests for Confidentiality

As a private institution, the College of Law has the ability to and does keep confidential the identity of a person officially reporting an act of violence or intimidation. When a victim of an act of violence or intimidation contacts the Public Safety Department, the appropriate law enforcement agency may also be notified if requested by the victim. However, if the police initiate an investigation and the State Attorney files a criminal charge, confidentiality may not be maintained.

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College of Law must weigh that request against the College of Law's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

The College of Law has designated the Dean of the College of Law or his/her designee, in consultation with the University Title IX Coordinator, to evaluate requests for confidentiality once a responsible employee is on notice of an act of violence or intimidation. When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Dean and Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
 - ➤ whether there have been other complaints of acts of violence or intimidation about the same alleged perpetrator;
 - ➤ whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - > whether the alleged perpetrator threatened further acts of violence or intimidation or other forms of violence against the victim or others;
 - whether the act of violence or intimidation was committed by multiple perpetrators:
- whether the act of violence or intimidation was perpetrated with a weapon;
- whether the victim is a minor;
- whether the College of Law possesses other means to obtain relevant evidence of an act of violence or intimidation (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College of Law to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College of Law will likely respect the victim's request for confidentiality.

If the College of Law honors the request for confidentiality, a victim must understand that the College of Law's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited. The College of Law will also take immediate action as necessary to protect and assist the victim.

Although rare, there are times when the College of Law may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students. If the College of Law determines that it cannot maintain a victim's confidentiality, the College of Law will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College of Law's response. The College of Law will take steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College of Law employees, will not be tolerated. The College of Law will also:

- Assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which may include issuing a no-contact order, helping
 arrange a change of living or working arrangements or course schedules (including for
 the alleged perpetrator pending the outcome of an investigation) or adjustments for
 assignments or tests; and
- Inform the victim of the right to report a crime to campus or local law enforcement, and provide the victim with assistance if the victim wishes to do so.

The College of Law may not require a victim to participate in any investigation or disciplinary proceeding.

Because the College of Law is under a continuing obligation to address the issue of acts of violence or intimidation campus-wide, reports of acts of violence or intimidation (including non-identifying reports) will also prompt the College of Law to consider broader remedial action — such as increased monitoring, supervision or security at locations where the reported act of violence or intimidation occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If a complaint is filed or referred under the Code of Student Professionalism and Conduct (Conduct Code) or under the Academic Honor Code (as a cross-referral from the Conduct Code when punishments at or more severe than suspension are at issue), then the accused student will be provided with the name of the complainant (if appropriate) and victim.

As required by law, all disclosures to any College of Law campus security authority of an oncampus act of violence or intimidation must be reported for statistical purposes only (without personal identifiers) to the Department of Public Safety, which has the responsibility for tabulating and annually publishing crime statistics, including statistics regarding acts of violence or intimidation. Campus security authorities generally include all members of the Office of Public Safety; all deans; Directors of the Office of Student Life, Residential Life, Tampa Law Center, Academic Success, International Programs, the Registrar's Office, and Human Resources; faculty advisors for journals, competition teams, internships, and clinics; Resident directors of international programs; and the Honor Code Investigator and Academic Integrity Officer. To promote public safety, the Department also alerts the campus community to immediate threats to campus safety by issuing Security Alerts.

E. Disciplinary Procedures

Disciplinary procedures and penalties are detailed in various applicable policies, and may include a range of sanctions up to and including termination and exclusion from campus:

- The Conduct Code governs actions which involve inappropriate conduct by a student, including unprofessional or disrespectful conduct; violations of the Sexual Harassment Policy; violations of this Sexual Assault, Domestic Violence, Dating Violence and Stalking Prevention and Response Policy; "endangering, threatening, harassing, or causing physical or mental harm to any member of the College of Law community or to oneself, or causing reasonable apprehension of such harm;" distribution of defamatory or illegal materials through the use of College of Law resources or at authorized College of Law activities; disorderly conduct; violations of law; and other actions enumerated in the Conduct Code. Available sanctions under the Conduct Code include warnings, reprimands, requirement of a letter of apology or explanation of conduct, community service, service to the College of Law, educational tasks, counseling or referrals for assistance, exclusion/restriction from events or places at the College of Law, suspension or expulsion from College of Law residences, or disciplinary probation.
- The Academic Honor Code governs actions involving academic issues, but can also be invoked for Conduct Code violations which the Conduct Code Investigator determines to be "serious in nature". Available sanctions under the Honor Code include those sanctions available under the Conduct Code plus academic penalty, suspension or expulsion from the College of Law, revocation of admission, denial of a dean's certificate, and suspension or revocation of a degree, certificate, or award conferred by the College of Law. A student who is expelled or suspended or who has his or her admission revoked as a result of disciplinary action may seek review through the Academic Integrity Officer and the Dean, as outlined in the College of Law's Academic Honor Code.
- The Employee Handbook governs the conduct of all employees, and provides the following:
 - Section 1.6, General Rules of Conduct: Employees are expected to act in a professional manner toward other employees, students, and the public. Sanctions for serious misconduct include disciplinary action up to and including immediate dismissal.
 - Section 1.8, Campus Security: Employees (and students) who engage in or threaten violence are subject to discipline, up to and including termination of employment or expulsion from the College of Law.

 Section 4.5.1, Domestic Violence in the Workplace: Employees who engage in domestic violence in the workplace or who use University facilities, property or resources to engage in domestic violence are subject to disciplinary action, including termination of employment.

Employee discipline follows the procedures outlined in Section 4.23, which may include verbal warnings, written warnings, disciplinary probation, suspension, and involuntary termination. In addition, the College of Law's Faculty and Staff Grievance Procedure governs disputes between employees. Grievances filed under this procedure will be assigned to a Grievance Officer for investigation and written recommendations to the Dean. A grievant who is dissatisfied with the Dean's decision may appeal to the University President if the grievant has a good faith basis for believing that the Dean's decision violated a published policy of the College of Law that has been approved by the Board of Trustees.

Disciplinary procedures involving accusations of acts of violence or intimidation will be conducted promptly and be fair and impartial. Such proceedings will be conducted by University officials who have received annual training on issues related to acts of violence or intimidation, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The standard of proof in such disciplinary proceedings shall be preponderance of the evidence. Both the accused and the victim have the same opportunities to have others present during a campus disciplinary proceeding where permitted, including an advisor of his or her choice. Under applicable federal regulations, the College of Law is permitted to release the results of a disciplinary proceeding regarding a crime of violence or a non-forcible sex offense if the perpetrator has violated the College of Law's policies and is found to be an alleged perpetrator of a crime of violence or a non-forcible sex offense. The College of Law will not disclose the names of any victim or witness without the prior written consent of the victim or witness absent a legal requirement to do so. Each of the victim and the accused will receive simultaneous notification in writing of (1) the result of the disciplinary proceeding, (2) the institution's procedures for an appeal of the result, if applicable, (3) any change to the result, and (4) when the results become final. In addition, the following special guidelines apply. A student found in violation of the Conduct Code, or the Academic Honor Code where the matter has been referred, could be criminally prosecuted and may be subject to any of the listed sanctions under the Conduct Code, or expulsion under the Academic Honor Code for the first offense.

F. Change in Academic or Living Conditions and other Protective Conditions

Student victims have the option to change their academic and/or on-campus living situations after an alleged act of violence or intimidation, if such changes are reasonably available. Such requests should be coordinated through the head of Student Life.

Student victims also have the option to take leave of absence or to modify their academic class schedule or to receive other academic accommodations such as class tapings to the extent that the College of Law is able to provide such academic accommodations within the requirements established for awarding academic credits.

Staff member victims have the option to modify their working conditions as needed, including the ability to take leave or, if feasible, to work from a different location. Pursuant to Stetson University's personnel policies, domestic violence perpetrators may be removed from the premises and may be subject to arrest and/or criminal prosecution. Stetson is committed to working with employees who are victims of domestic violence in order to prevent abuse and harassment from occurring in the workplace. No employee will be penalized or disciplined solely for being a victim of harassment in the workplace. Employees who are victims of domestic violence are expected to cooperate to ensure a safe working environment for themselves and for other employees. In accordance with Florida law, Stetson University will provide leave to victims of domestic violence who need to take time off for one of the reasons listed in Personnel Policy 4.5.2 (Domestic Violence Leave). Procedures for requesting such leave are detailed in that policy.

Victims will be notified in writing of any options for protection of the victim, and these options will be made available regardless of whether the victim reports the incident to law enforcement or to Public Safety.

G. Education and Resources

The College of Law educates the student community about acts of violence or intimidation, including prevention and recognition of such acts, through mandatory initial student orientation for each entering class and through ongoing prevention and awareness programming. The Office of Student Life offers information regarding acts of violence or intimidation to students upon request. Literature on date rape education and risk reduction are available for the entire campus through the Office of Student Life and the Public Safety Department. The College of Law educates employees, including faculty members, about acts of violence or intimidation through mandatory training programs at the time of hire and ongoing prevention and awareness programming for current employees. These orientation programs include Florida and national definitions of acts of violence or intimidation and consent, information on bystander intervention options, information on risk reduction, and the victim notification and disciplinary proceeding information contained in this policy.

An individual who has been the victim of an act of violence or intimidation is urged to make an official report to Public Safety Department. Whether or not a victim of an act of violence or intimidation chooses to make an official report, he or she is urged to seek appropriate help. There are numerous resources for faculty, staff, students, and visitors to campus.

Specific resources, either on or off campus, for medical treatment, legal evidence collection, and obtaining information, support and counseling are listed below. Each resource can assist a person to access the full range of services available.

 Medical Treatment — An individual who is the victim of an act of violence or intimidation is urged to seek appropriate medical evaluation as promptly as possible. For life-threatening conditions, call 911 or go to the Emergency Room of the nearest hospital. For treatment of less serious injuries or for evaluation and prevention of sexually transmitted diseases and pregnancy, as well as consultation for other health issues,

- individuals and/or their spouses/domestic partners should seek medical treatment using ordinary channels such as local clinics or personal physicians.
- Medical-Legal Evidence Collection An individual who is the victim of an act of violence or intimidation is encouraged to request collection of medical-legal evidence.
 Prompt collection of physical evidence is essential should a person later decide to pursue criminal prosecution, a civil action, and/or an order of protection. To obtain a free medical-legal exam, the individual should contact the police and file a police report.
- Obtaining Information, Support, and Counseling Whether or not one chooses to make an official report, an individual who has been the victim of an act of violence or intimidation is encouraged to obtain information, support and counseling. The degree to which confidentiality can be protected depends upon the professional role of the person being consulted and should be addressed with that person before specific facts are disclosed. For students, counseling is available through Eckerd College by contacting Eckerd directly at 727-864-8248 or through referral by the Office of Student Life. For employees, counseling is available through the Employee Assistance Program by contacting HorizonCareLink at (800) 272-7252. Off-campus options include:
 - > Stetson University Counseling Center (in DeLand), 1-386-822-8900
 - ➤ Florida Council Against Sexual Violence (http://www.fcasv.org/)
 - Rape Crisis Hotline 1-888-956-RAPE (7273)

The victim or anyone reporting an act of violence or intimidation will also receive written notification about existing victim advocacy, visa and immigration assistance, and other services available for victims within the institution and in the community. The written information will also include additional information about victims' rights and the College of Law's assistance in enforcing orders of protection, no contact orders, and similar victim's rights.

The College of Law also maintains a list of community resources in the area of suicide prevention, domestic violence and other mental support on the Student Life page at http://www.law.stetson.edu/students/home/mental-health-and-support-resources.php. Students in need of legal counsel may wish to use the Florida Bar Attorney Referral line at http://www.floridabar.org/divpgm/lronline.nsf/wreferral6?OpenForm or the St. Petersburg Bar Association's Lawyer Referral Service at 727-821-5450.

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