



# Stetson Policy on Gender-Based Misconduct

FOR DEPUTIES, INVESTIGATORS, ADVISORS, AND HEARING OFFICERS

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# Policy Basics

- ▶ Part of Federal Civil Rights laws
- ▶ Many changes over the years
- ▶ Applies to students, employees, visitors, and anyone operating on our campuses
- ▶ Addresses access to programs (includes education and employment) sponsored by the University
- ▶ Goal – sexual harassment, gender bias, gender discrimination should NOT interfere with your education or employment

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# Stetson Policy:

- ▶ Adheres to the requirements of the US Department of Education
- ▶ Uses a Preponderance of the Evidence Standard
- ▶ Uses a two-investigator model
- ▶ Always provides supportive services
- ▶ Uses a minimum of 2 hearing officers for the live hearing
- ▶ Holds hearings virtually through live video/audio so parties are in separate rooms

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# The policy applies to:

- ▶ Students, faculty, staff, administrators, vendors/contractors
- ▶ Stetson events/programs away from campus
- ▶ Situations where someone would reasonably assume the event was Stetson-sponsored or sponsored by an organization (this includes a party by a recognized club at a local event site or private home)
- ▶ Includes incidents that have an impact on education/employment even if they happen elsewhere
- ▶ Provides protections to pregnant students, up to and including childbirth/recovery and any type of pregnancy loss/recovery

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# Important Definitions

- ▶ Sexual Harassment: includes conduct on the basis of sex or gender (or perceived sex or gender) that involves the condition of aid, benefit, or service on an individual's participation in unwelcome sexual conduct; Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Stetson programs and activities; or Sexual assault, dating violence, domestic violence, or stalking as defined below.
- ▶ Domestic/Dating Violence: violence or abuse between those in an intimate interaction and/or relationship to each other; includes physical assault, psychological abuse and manipulation, forcing a partner to use one type of birth control over another or none at all despite the stated desire of one partner.

# Important Definitions, cont.

- ▶ Domestic/Dating Violence: 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.” F.S. 741.28
  - b) 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.” F.S. 784.046
- ▶ Stalking: A course of conduct directed at a specific person that is unwelcome AND that would cause a reasonable person to fear for their, or others' safety, or to suffer substantial emotional distress; A course of conduct includes a series of acts over any period of time which is repetitive and menacing; pursuit, following, harassing and/or interfering with the peace and/or safety of another. This can include cyberstalking, or other behavior or a course of conduct that causes substantial emotional distress to the person the conduct is directed at.

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# Important Definitions, cont.

► Sexual Assault: an unwanted sexual act, further defined as:

a) non-consensual sexual contact: the deliberate touching a person's intimate parts (including genitalia, groin, breast, or buttocks), or clothing covering any of those area(s) or to cause a person to touch his or her own or another person's intimate parts; with any object, by a person upon another person, that is without consent, is coerced, under threat of use of force, and/or by force.

b) non-consensual sexual intercourse: any penetration (anal, oral, or vaginal) by a penis, tongue, finger, or an inanimate object, by any person upon another person, that occurs without consent, is coerced, is under threat of use of force and/or by force.

Sexual assault can occur either forcibly and/or against a person's will, or when a person is incapable of giving consent.

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.

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# The people in the process

- ▶ Claimant – a person considered the “victim”
- ▶ Respondent – the person accused of the violation
- ▶ Witness – a person with information about the incident
- ▶ Title IX Coordinator – Employee charged with managing the response
- ▶ Deputy Coordinator(s) – employees who assist with the response, in place of or with the Title IX Coordinator
- ▶ Investigators – employees who conduct the investigation
- ▶ Advisors – individuals who assist the claimant or respondent, conduct the cross-examination at the hearing, can be employees or others
- ▶ Hearing Officers – those who run the hearing, determine credibility, relevance, responsibility, and sanctions
- ▶ Appeal Officers – those who review an appeal for a final decision

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# Actions considered violations:

- ▶ Unwanted touching
- ▶ Non-consensual sexual activity
- ▶ Revenge Porn
- ▶ Exploitation
- ▶ Harassment through in-person, electronic, or media
- ▶ Stalking
- ▶ Physical violence between individuals in a dating or domestic relationship
- ▶ Non-disclosure of HIV/SID status
- ▶ Forcing another to view pornography

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# Important Policy Notes:

- ▶ Title IX covers everyone on campus
- ▶ The incident doesn't have to occur on campus for Title IX to apply
- ▶ Includes campus organizations operating a site/event in a non-campus location
- ▶ Includes harassment based on sexuality or perceived sexuality
- ▶ Has specific requirements to be considered a violation – but actions could be covered under other Stetson policies
- ▶ Focus is on support of the claimant
- ▶ Support services are provided to all involved, including the respondent and any witnesses

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# Important Policy Notes:

- ▶ Situations where an employee is reported for harassment towards a student **MUST** be handled through the formal process
- ▶ If both parties agree, informal processes can be used
- ▶ Informal process still requires an investigation
- ▶ Stetson uses a 2-investigator model
- ▶ The Executive Director for Title IX cannot serve as an advisor or hearing officer
- ▶ Stetson's focus is on providing a process free of bias that provides support and accountability while ensuring due process

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# Supportive Services:

- ▶ Can be immediate – health care, change in room, work schedule changes, contact with law enforcement, counseling services
- ▶ Includes non-disciplinary, non-punitive individualized services offered as appropriate, reasonably available, and without fee or charge to the complainant or the respondent before or after filing of a formal complaint or where no formal complaint has been filed
- ▶ No contact orders at Stetson are mutual
- ▶ Emails to professors
- ▶ Contact with HR
- ▶ Referral to community services

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# Informal Resolution

- ▶ Must be agreed upon by both (and the University)
- ▶ Still requires an investigation
- ▶ Can include restorative processes, facilitated conversations, meetings
- ▶ Can include sanctions, but at a lower level
- ▶ Respondent is required to accept responsibility

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# Formal Resolution

- ▶ Requires a full investigation
- ▶ Requires a live hearing with cross-examination
- ▶ Hearing officers determine credibility, relevance, responsibility, and sanctions
- ▶ Either party can appeal
- ▶ Is conducted through live video/audio connections
- ▶ Advisors conduct cross-examination of parties
- ▶ Title IX staff provide support

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# The Hearing

- ▶ Conducted live, with parties in separate rooms connected by audio & video
- ▶ Stetson uses a minimum of 2 Hearing Officers
- ▶ Only Advisors and Hearing Officers can ask questions of parties, witnesses, or investigators
- ▶ Rules of decorum must be followed
- ▶ Hearing Officers determine relevance of questions before they are answered
- ▶ Hearing Officers determine sanctions

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# After the hearing...

- ▶ Parties are notified of the outcome within 5 business days after it has been decided
- ▶ Both complainant and respondent are notified
- ▶ Information shared includes alleged violation(s), responsible/not responsible finding, sanctions imposed, and the appeals process

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# Who can appeal?

- ▶ Complainant
- ▶ Respondent
  
- ▶ Note that the University, witnesses, or any others may NOT appeal

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# Appeal requirements:

- ▶ Within 3 days after delivery of the written findings
- ▶ Must be provided *in writing* to the Title IX Coordinator or appropriate Deputy
- ▶ Limited grounds for appeal

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# Appeals must be based on

1. New evidence exists which was unavailable at the time of the decision;
2. A significant procedural error or omission occurred the may have significantly impacted the outcome;
3. Sanctions fall outside of the range of the University-designated sanctions;
4. Conflict of interest or bias on the part of the Title IX Coordinator, Investigators, or Hearing Officer.

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# Examples of a significant procedural error or omission:

- ▶ Material deviation from established procedures
- ▶ Preponderance of evidence does or does not support the findings
- ▶ Substantiated bias

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# Once the appeal is received:

- ▶ All parties are notified of the appeal and the request and any evidence is shared – other party/parties have 3 days to submit a written response to the appeal
- ▶ Appeals Officer is identified when the formal process is implemented; this allows for them to be insulated from any details of the investigation/hearing
- ▶ All responses and requests are shared with each party
- ▶ Appeals Officer reviews the evidence and hearing recording
- ▶ Appeals Officer will meet with both the complainant and respondent if necessary (“equitably”)

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# What the Appeals Officer can do:

- ▶ Affirm the original decision and sanctions
- ▶ Modify the original decision and sanctions
- ▶ Send the matter back to the investigators (when the appeal is granted based on new evidence)
- ▶ Notify the Title IX Coordinator of their decision
- ▶ The Title IX Coordinator then must provide all parties with written notice of the final outcome of the appeal within 5 days of the outcome

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# The Appeals Officer's decision...

...Is the final determination of University violations

There is no additional appeal.

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# Some examples of sanctions in serious cases:

- ▶ Suspension until the claimant has graduated
- ▶ Application required to return to the University
- ▶ Expulsion with no option to return
- ▶ Termination of employment
- ▶ Only allowed to participate virtually in classes – no on-campus activities or virtual clubs/organizations

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# This presentation is an overview of the policy-

- ▶ Be sure to view the presentation on definitions for more in-depth information
- ▶ Read the policy itself to assist you in your role

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Need more information?

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