

Florida International University

Policy on Sexual Offenses, Relationship Violence, and Stalking

Introduction

A safe campus environment is one in which students; faculty and staff are free to conduct their daily affairs both inside and outside the classroom without fear of physical, emotional, or psychological harm. Personal safety is a basic human need that must be preserved if the mission of the university is to be pursued.¹ Florida International University (FIU) recognizes the basic rights and freedoms of students. They are inherent to the educational process and to the intellectual growth of students. FIU is committed to fostering an environment in which the highest moral and ethical standards are upheld and in which all individuals and groups are treated with respect and without prejudice whether due to race, gender, sexual orientation, disability, age, infection with disease, marital status, religion, nationality, ethnicity or political persuasion. FIU intends to coordinate its policy with regard to sexual offenses, relationship violence, and stalking, and provide for its implementation. Further, FIU seeks to effectively balance the rights of each student, faculty member, staff member, and university visitor with the goal of a safe campus community.

Florida International University is an educational community bound by common standards of conduct and a commitment to its educational mission. Sexual offenses, relationship violence, and stalking are considered particularly troubling because those behaviors interfere

¹ National Student Personnel Administration's Task Group on Safety and Security, 1980.

with the educational mission by:

- Endangering the physical and emotional safety of community members;
- Damaging trust in the community;
- Offending the dignity and violating the autonomy of community members;
- Disrupting the academic progress of victims during the abusive relationship and during any subsequent attempt at recovery.²

This policy is established in order to provide for the coordination of the university's response and to provide for the needs and care of victims, as well as to enforce behavior standards critical to the university's mission, and consistent with our values.

Comprehensive Policy Statement

Relationship violence, sexual offenses, and stalking will not be tolerated in the University community. Florida International University is committed to prevention and awareness education on all these issues. This policy is not designed to substitute or supersede related civil and criminal law. Members of the University community, (students, faculty, and staff) and University visitors are expected to comply with and abide by the University policies and guidelines issued below, as well as federal, state, and local laws, whether off campus or on-campus. It should be clearly understood that there is a fundamental difference between the nature and purpose of student discipline and criminal law. Regardless of the charge issued or

² Fisher, Cullen and Turner, 2000

procedures employed, sanctions issued by the University can be expected to be consistent with the educational mission of the institution.

Victims are encouraged to access all available university services, including, but not limited to those offered by Florida International University Victim Advocacy Center, Psychological and Counseling Services, Health Care and Wellness Center, Student Conduct and Conflict Resolution, and Equal Opportunity Programs. In addition, it is the policy of the institution to inform all victims of their right to report all offenses and violations to the law enforcement officials or agencies with appropriate jurisdiction, and avail themselves of all the services and rights to which they are entitled by law. University personnel should always contact Victim Advocacy Center for guidance and to coordinate the transfer of care. In addition, students, faculty or staff who have petitioned the court for an Injunction Against Repeat Violence or on whose behalf a judge has issued a Stay Away Order, are encouraged to inform and provide a copy of such order to the University Police Department.

It is important that all violations of this policy are reported to appropriate authorities, including the law enforcement officials or agencies with jurisdiction in the location of the incident, given the potential harm to members of the University community and the need to monitor the campus climate. Whether the victim chooses to immediately involve law enforcement officials or not, the victim is urged to contact the FIU Victim Advocacy Center for assistance with coordinating services, accessing resources, securing academic and other accommodations, and to help the victim engage in safety planning, explore options, and consider

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This project was supported by Grant No. 2001-WA-BX-0002 awarded by the Office on Violence Against Women, Office of Justice Programs, U.S. Department of Justice, to *Florida International University Victim Advocacy Center*. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. 3/24/2008

how to preserve evidence if the victim chooses to pursue legal prosecution at a later date, and for help with recovering from the trauma.

In order to protect a victim's confidentiality and anonymity, and in an attempt to protect the University community, a victim can make a report about the incident, including identification of the assailant if known, to the FIU Victim Advocacy Center at any time, whether legal or disciplinary action is desired. Victim Rights are detailed in Florida International University Student Code of Standards. Specific guidelines and procedures for responding, reporting, providing referrals and accessing resources are contained in the Procedures document accompanying this Policy.

FIU reserves the right to change this policy in order to comply with changes in relevant laws, definitions, or University operating procedures. Please see the FIU web page for the most recent updates: <http://www.fiu.edu>. The office of FIU Victim Advocacy Center, Division of Student Affairs, manages this policy.

Sexual Offenses Policy

In addition to the Comprehensive Policy Statement above, this section addresses issues specifically related to sexual offenses. However, all sections of this policy are interrelated and no one section is to be read to the exclusion of the others. Specific guidelines and procedures for responding, reporting, providing referrals and accessing resources are contained in the Procedures document accompanying this Policy.

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Sexual battery and attempted sexual battery will not be tolerated in any form in the University community and are punishable by the Florida Criminal Statutes and also disciplined by the appropriate administrative authority. Victims of sexual battery are strongly encouraged to seek medical care, and victims are strongly encouraged to have a rape protocol exam conducted at the Rape Treatment Center if the incident occurred within the past 72 hours. The sooner a rape protocol exam is conducted, the easier it is to collect valuable evidence, regardless of whether the victim chooses to report the offenses to police. FIU Victim Advocacy Center staff is available 24 hours everyday to assist victims and explain options. No police report is required to receive FIU Victim Advocacy Center services. FIU Victim Advocacy Center provides victims assistance with coordinating services, accessing resources, securing academic and other accommodations, and also helps the victim engage in safety planning, explore options, and consider how to preserve evidence (if the victim chooses to pursue legal prosecution at a later date), and provides supportive counseling to foster recovery from the trauma.

University personnel should always contact FIU Victim Advocacy Center for guidance and to coordinate the transfer of care. University personnel should advise victims of their right to report and fully disclose incidents(s) of sexual offenses to the police. If the incident occurs in University housing, victims are also encouraged to contact Residence Hall staff.

Healthy sexual activities involve mutually expressed consent. Consent is defined as follows:

- Both individuals are physically free and capable to act;

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- Both are clear about their intent to engage in sexual activities and their willingness and capacity to do so;
- Silence may not in and of itself constitute consent;
- Past consent of sexual activities does not imply ongoing future consent.
- The use of alcohol and other drugs, in conjunction with a sexual offense, does not mitigate accountability for the commission of this crime or diminish the seriousness of the crime. University administrative personnel when determining responsibility and appropriate sanctions will take the use of a substance for purposes of harming another individual into consideration.

Definitions of Sexual Offenses

NOTE: The term sexual offense as used in this policy, encompasses sexual misconduct as defined in the Student Code of Conduct³, sexual battery as defined by the Florida Statutes⁴, and other terms commonly used, such as rape and sexual violence. Acts of date rape, gang rape, acquaintance rape, marital rape, and stranger rape are all considered to be sexual battery, and are punishable according to the criminal statutes of the State of Florida, as well as subject to disciplinary action by the appropriate university administrative authority.

Relationship Violence Policy

In addition to the Comprehensive Policy Statement above, this section addresses issues specifically linked to relationship violence. However, all sections of this policy are interrelated

³ FIU Student Handbook, Policies and Regulations

⁴ To see current Florida Statute 794.011 in its entirety, see <http://www.flsenate.gov/Statutes/index>

and no one section is to be read to the exclusion of the others. Specific guidelines and procedures for responding, reporting, providing referrals and accessing resources are contained in the Procedures document accompanying this Policy.

Florida International University will not tolerate relationship violence, and victims are encouraged to report all incidents and violations to the law enforcement officials or agencies with appropriate jurisdiction and avail themselves of all the services and rights to which they are entitled by law.

In addition, victims are encouraged to contact the FIU Victim Advocacy Center for assistance with safety planning, even if she or he chooses to remain with the abusive partner. If a victim wishes to leave the abusive partner, she or he is urged to seek assistance and engage in safety planning, since research has shown that risk of harm increases during the time immediately following separation. FIU Victim Advocacy Center staff is available 24 hours everyday to assist victims and explain options. No police report is required to receive FIU Victim Advocacy Center services. FIU Victim Advocacy Center provides victims assistance with coordinating services, accessing resources, securing academic and other accommodations, and also helps the victim engage in safety planning, explore options, and consider how to preserve evidence (if the victim chooses to pursue legal prosecution at a later date), and provides supportive counseling to foster recovery from the trauma.

University personnel should always contact FIU Victim Advocacy Center for guidance and to coordinate the transfer of care. University personnel should advise victims of their right

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to report and fully disclose incidents(s) of relationship violence to the police. If the incident occurs in University housing, victims are also encouraged to contact Residence Hall staff.

Definitions of Relationship Violence

NOTE: Relationship Violence (also known as “intimate partner violence”), as used in this policy encompasses domestic violence as defined by the Florida Statutes⁵ and Endangerment and Harassment as defined in the Student Code of Conduct⁶, as well as domestic violence it has been traditionally conceived to include married couples, co-habiting couples and couples with children in common, and expands the range of relationships to include interpersonal violence between boyfriend/girlfriend, dating relationships, former intimate partners, and same sex relationships.

Stalking Policy

In addition to the Comprehensive Policy Statement above, this section addresses issues specifically tied to stalking. However, all sections of this policy are interrelated and no one section is to be read to the exclusion of the others. Specific guidelines and procedures for responding, reporting, providing referrals and accessing resources are contained in the Procedures document accompanying this Policy.

Florida International University will not tolerate stalking or cyber-stalking. For specific policy regarding technology-aided stalking (also known as ‘cyber-stalking’, see the Technology-aided Stalking Policy section of this document. It is important to note that a person may be

⁵ To see current Florida Statute 794.011 in its entirety, see <http://www.flsenate.gov/Statutes/index> .
For current Florida Statute 784.046 in its entirety, see <http://www.flsenate.gov/Statutes/index>.

⁶ FIU Student Handbook, Policies and Regulations

guilty of the offense of stalking even if the behavior does not include actual threats of violence. University personnel should advise victims of their right to report and fully disclose incidents(s) of stalking to the law enforcement officials or agencies with appropriate jurisdiction and avail themselves of all the services and rights to which they are entitled by law. In addition, University personnel should always contact FIU Victim Advocacy Center for guidance and to coordinate the transfer of care.

FIU Victim Advocacy Center staff is available 24 hours everyday to assist victims and explain options. No police report is required to receive FIU Victim Advocacy Center services. FIU Victim Advocacy Center provides victims assistance with coordinating services, accessing resources, securing academic and other accommodations, and also helps the victim engage in safety planning, explore options, and consider how to preserve evidence (if the victim chooses to pursue legal prosecution at a later date), and provides supportive counseling to foster recovery from the trauma.

Definitions of Stalking

NOTE: Stalking, as used in this policy, encompasses Stalking as defined by Florida Statutes⁷ and Endangerment and Harassment and Stalking as defined in the Student Code of Conduct⁸

Technology-aided Stalking Policy

In addition to the Comprehensive Policy Statement, this section addresses issues

⁷ To see current Florida Statutes 784.048, 775.082, 775.083, 775.084 in their entirety, see <http://www.flsenate.gov/Statutes/index>.

⁸ FIU Student Handbook, Policies and Regulations

specifically related to technology-aided stalking and harassment, also known as ‘cyber-stalking;’ however, all sections of this policy are interrelated and no one section is to be read to the exclusion of the others. Specific guidelines and procedures for responding, reporting, providing referrals and accessing resources are contained in the Procedures document accompanying this Policy.

Definitions of Technology-aided Stalking

NOTE: Technology-aided Stalking, as used in this policy, encompasses Stalking and Cyber-Stalking as defined by Florida Statutes⁹ and Endangerment and Harassment, Stalking and Computer Misuse as defined in the Student Code of Conduct,¹⁰ and can include any other violation of the University Computer Use and Web Page Policies.¹¹

Technology- aided Stalking, also known as “cyber stalking,” generally consists of persistent offensive, disturbing or threatening communication through a variety of types of technology, including but not limited to: the Internet, via e-mail, chat rooms, or instant messaging or through other electronic means, such as cellular telephones or pagers. "Cyber" stalkers easily disguise themselves by adopting several false identities and then harass the target thorough unsolicited e-mails, disturbing private or public messages on bulletin boards or in chat rooms, and communiqués of threats.

⁹ To see current Florida Statutes 784.048, 775.082, 775.083, 775.084 in their entirety, see <http://www.flsenate.gov/Statutes/index>.

¹⁰ FIU Student Handbook, Policies and Regulations

¹¹ The complete policies are available at: <http://www.fiu.edu/provost/polman/sec11web.htm>.

Technology-aided stalking is equally as serious as conventional stalking and is included in most statutes addressing stalking.¹² It is important to note that a person may be guilty of the offense of stalking even if the behavior does not include actual threats of violence. Although this section addresses technology-aided stalking and harassment specifically, all sections of this policy are interrelated and no one section is to be read to the exclusion of the others. Specific guidelines and procedures for responding, reporting, providing referrals and accessing resources are contained in the Procedures document accompanying this Policy.

University personnel should always contact FIU Victim Advocacy Center for guidance and to coordinate the transfer of care. University personnel should advise victims of their right to report and fully disclose incidents(s) of technology aided stalking or harassment to the police. FIU Victim Advocacy Center staff is available 24 hours everyday to assist victims and explain options. No police report is required to receive FIU Victim Advocacy Center services. FIU Victim Advocacy Center provides victims assistance with coordinating services, accessing resources, securing academic and other accommodations, and also helps the victim engage in safety planning, explore options, and consider how to preserve evidence (if the victim chooses to pursue legal prosecution at a later date), and provides supportive counseling to foster recovery from trauma.

¹² Campus Stalking Guide, California Coalition Against Sexual Assault- CALCASA, July 2002.