

FLORIDA GATEWAY COLLEGE

POLICY

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TITLE: Misconduct, Including Sexual Misconduct,  
Assault, Battery, and Sexual Battery

NUMBER: 6Hx12:6-45

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AUTHORITY: District Board of Trustees

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RESPONSIBILITY: Executive Director, Human Resources, and/or Appropriate Vice  
President

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OTHER: State Board of Education Rule  
6A-14.0261, 6A-19.008  
Florida Statutes 1001.64; 1001.65  
794.011, 784.011, 784.03

DATE: See History Below

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This policy is in addition to the Board's Policy No. 6Hx12:6-23 on Harassment, and is intended to address behavior which may constitute sexual harassment as defined in that Policy, but which may be more serious in nature than simple sexual harassment, or may go beyond sexual harassment and/or may involve criminal conduct. It is the Board's policy that its employees, its students, independent contractors and vendors doing business with the College and their employees, as well as visitors to the College, be able to pursue their work, education, visits and other lawful activities free from such conduct or its adverse effects. It is also policy to provide for zero tolerance of violence or threats of violence by employees, students, and contractor/vendor employees of the College. It is the further policy of the Board to take an active role, without assuming any legal obligation that would not otherwise exist, in efforts to prevent conduct of this nature, on its premises or in areas and situations where the Board has jurisdiction to take steps.

Misconduct, to include sexual assault and sexual battery, and acquaintance rape are specifically prohibited in the Code of Student Conduct, as published in the Student Handbook, as well as in the Florida Gateway College Policy & Procedure Manual. Violations of this policy will be addressed in accordance with the law and applicable rules or policies of the Board.

Care will be taken to ensure that victims of sexual misconduct are cared for professionally and with concern. First aid may be offered by College Security and medical attention of a more serious nature will be provided by the county rescue squad and by local hospitals. In the instance of possible rape cases, medical personnel at local hospitals may be asked to gather physical evidence of a medical nature. Emotional assistance will be offered by

the College counseling staff. The College will assist the victims of sexual misconduct in obtaining the services of external professionals, as needed although the College does not necessarily assume financial responsibility for such services.

The offering of counseling services by the College shall not in any way be construed as implying or admitting in whole or in part to any inappropriate or wrongful actions on the part of the College, its agents or employees.

The Executive Director, Human Resources, will serve as victim advocate for employees, and the Vice President and Student Services will perform the same function for students. In either instance, the role of the victim advocate is to assist the victim and ensure that his or her rights are protected. This duty may be delegated to another employee, if the victim feels more comfortable with that second employee acting as his or her advocate.

Education to increase awareness of the problem of sexual misconduct, to discourage such activities, and to encourage reporting will occur on campus. Students will receive such training through student orientation, through student development classes, and through annual activities sponsored through the Health Awareness Program. Employees will receive training at the beginning of the school year through the Employee Orientation.

Campus security will be reviewed, evaluated, from time to time, and increased to minimize the threat of sexual assault as the result of dangerous conditions.

#### Definitions Pertaining to Sexual Misconduct

To provide College staff and students with a clearer understanding of terms that apply to this policy, the following definitions are included:

- A. Assault - This is an intentional threat by word or an act to do violence to another person, coupled with an apparent ability to do so and doing some act that creates well-founded fear. (Misdemeanor of 2nd degree)
- B. Sexual Assault - Although not a specific criminal offense in violation of the Florida Criminal Code, sexual assault is often used to include instances such as sexual battery, sexual abuse, sexual misconduct, severe types of sexual harassment, and other offenses of this nature, including assault and battery.
- C. Aggravated Assault - This is an assault:
  - (1) with a deadly weapon without intent to kill, or
  - (2) with an intent to commit a felony. (Felony of 3rd degree)

- D. Battery - A person commits battery if he/she:
- (1) actually and intentionally touches or strikes another person against the will of another person; or
  - (2) intentionally causes bodily harm to an individual (Misdemeanor of 1st degree)
- E. Aggravated Battery - A person commits aggravated battery if he/she commits battery and:
- (1) intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or
  - (2) uses a deadly weapon (Felony of 2nd degree)
- F. Sexual Battery - Sexual battery (rape) means, 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.

There are varying degrees of sexual battery defined by the Florida Statutes.

The provisions of this policy may overlap with those of Board Policy No. 6Hx12:6-23, and these policies are not intended to be mutually exclusive. A given matter may be pursued under either policy, or under both. Neither is either policy intended to limit the Board or administration in addressing any incident of sexual misconduct by taking such steps as may be necessary, in the opinion of those concerned, to discharge applicable obligations.

Under this policy, it will be appropriate for the college administration, when permitted by law, to take action against employees or students on account of conduct or behavior taking place off College premises.

- G. These definitions are not exclusive, and this policy covers other forms of sexual misconduct, such as public indecency and voyeurism, to the extent permitted by law.

FLORIDA GATEWAY COLLEGE

PROCEDURE

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TITLE: Misconduct, Including Sexual Misconduct,  
Assault, Battery or Sexual Battery

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AUTHORITY: District Board of Trustees

DATE: See History  
Notes Below

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RESPONSIBILITY: Executive Director, Human Resources  
and/or Appropriate Vice President

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NUMBER OF BOARD RELATED POLICY: 6Hx12:6-45

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In compliance with the District Board of Trustees policy number 6Hx12:6- 45, the following are procedural guidelines for responding to reports or apparent incidents of assault, battery, and sexual battery that may occur at Florida Gateway College. Assault, Battery, and Sexual Battery are very serious criminal offenses and will be handled as such by the staff of Florida Gateway College. Confidentiality will be maintained as requested and to the extent allowed by law:

1. Campus Security will be the first department contacted after a reported incident on campus or college site. The Security Office will be sent to the location to investigate the incident.
2. The Security Officer will immediately notify the appropriate law enforcement agency after a determination is made that it is reasonable to believe that a crime may have occurred, even if the alleged victim requests that the incident not be reported to such an agency. Failure to report such crimes may constitute obstructing justice and be in violation of Florida Statutes.
3. The Security Officer will notify the appropriate Vice President and his/her supervisor that there is cause to believe that a crime may have occurred. The Vice President is responsible for notifying the President and the Executive Director of Human Resources. After a determination of the basic facts, the Security Officer will immediately re-contact the Vice President.

4. The Security Officer will direct the investigation at the College and provide continuous updates to the Vice President regarding the status of the investigation. This investigation will in no way interfere with any investigation conducted by any local law enforcement agency.
5. The appropriate Vice President and Executive Director of Human Resources will coordinate the investigation of each incident. If it is determined that clear and present dangers exists, the appropriate College official may bar the alleged offender from the campus pending a hearing date.
6. **STUDENT AND EMPLOYEE DISCIPLINARY PROCEEDINGS** - In the event a student or employee is involved in an assault, battery or sexual battery, or any criminal conduct, the student or employee disciplinary procedures will be implemented.
7. **OFF-CAMPUS ACTS** - The College will not investigate possible or reported crimes off campus unless the incident occurred at a College-related or College-sponsored event (i.e. athletic event, theater event, etc.) in which case an internal investigation will be implemented following the procedures in number 1-5 above.
8. For all incidents, the President or designee in conjunction with the College attorney will work with the Assistant State Attorney or other investigators assigned to the case, to cooperate to the extent possible and provide assistance for each entity's cases.