

Definitions

The following definitions will apply to Jacksonville University's sexual misconduct policies and procedures. In order to provide additional information and clarity, Jacksonville University has also provided the definitions of some of the following offenses in the applicable jurisdiction.

Sexual Abuse

"Sexual Abuse" means any actual or attempted criminal sexual conduct of a person by another person, or persons acting in concert, regardless if criminal charges or proceedings are brought, which causes physical and/or mental injuries. Sexual Abuse does not include "Sexual Harassment". Additional information regarding sexual harassment may be found on the Human Resources web site at <http://www.ju.edu/humanresources/Pages/Sexual-Harrassment.aspx>.

Sexual Harassment

Jacksonville University prohibits sexual harassment, which is defined by the Equal Employment Opportunity Commission as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, enrollment, or education;
2. Submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or academic experience or creates an intimidating, hostile, or offensive work or academic environment.

A copy of the complete Jacksonville University Policy and Procedures regarding sexual harassment is online. Any member of the faculty, staff, administration or student body who believes he or she has been subjected to unlawful discrimination, as defined in the sexual harassment policy, may initiate informal and formal actions for complaint resolution.

Students should contact the Dean of Students or any counselor at the Student Counseling Center to discuss a sexual harassment issue or to initiate actions for complaint resolution.

Sexual Assault

Having or attempting to have sexual intercourse or sexual contact with another individual without consent. This includes sexual intercourse or sexual contact achieved by the use of threat of force or coercion, where an individual does not consent to the sexual act, or where an individual is incapacitated. Sexual assault includes the following acts:

1. Non-consensual Sexual Intercourse – Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.
2. Non-consensual Sexual Contact – Sexual contact includes touching or kissing the private body parts of another person for the purpose of sexual gratification. Private body parts may include the breasts, genitals, buttocks, mouth, or any other part of the body that is touched in a sexual manner.

Sexual battery is defined under Florida Statutes to mean 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, without that individual's consent.

Domestic Violence

Domestic Violence is a felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. By a person similarly situated to a spouse under the laws of the applicable jurisdiction; or
5. By any other person against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction.

Domestic Violence is defined under Florida Statutes to mean 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. A family or household members are spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of

persons who have a child in common, the family or household members must be currently residing together or have in the past resided together in the same single dwelling unit. Domestic Violence includes:

- a. Physical Abuse – Pushing, slapping, kicking, choking, and beating,
- b. Emotional/Verbal Abuse – verbal intimidation, credible threats, following and stalking, acting out in anger, and
- c. Sexual Abuse or Battery – Any unwanted touching or forcing of someone to engage in a sexual act against his or her will.

Dating Violence

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Dating Violence is defined by Florida Statutes to mean 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:

- a. A dating relationship must have existed within the past 6 months,
- b. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties,
- c. 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, and
- d. 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.

Sexual Exploitation

Sexual exploitation is when an individual takes non-consensual or abusive sexual advantage of another, for his/her own benefit; or to benefit anyone other than the one being exploited; and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for the person's safety or the safety of others; or
2. Suffer substantial emotional distress.

For purposes of this definition;

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
3. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking is defined under Florida Statutes to mean when a person willfully, maliciously, and repeatedly follows, harass, or cyber stalks another person. Aggravated stalking occurs when that person makes a credible threat to that person through stalking.

Consent

Consent means intelligent, knowing, and voluntary consent and does not include coerced submission. Consent shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender. Consent must be voluntary and informed. This means the person being acted upon knows what is happening and both parties have input and both want to participate in a given sexual act. Communication is important. Consent cannot be inferred from silence, passivity, lack of resistance, or lack of an active response alone. The absence of a "no" does not imply consent, nor does a previous sexual relationship. A person who is mentally or physically incapacitated by drugs or alcohol, or is unconscious, asleep, or unaware cannot give consent. Consent may be withdrawn by either party at any time by words or actions that clearly indicate a desire to end sexual activity.

In addition, Florida Statutes include the following definitions related to consent:

- "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

- “Mentally incapacitated” means temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.
- “Physically helpless” means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.
- “Physically incapacitated” means bodily impaired or handicapped and substantially limited in ability to resist or flee.

Sexual exploitation

- Prostituting another person (i.e. personally gaining money, privilege, or power from the sexual activities of another person);
- Non-consensual video, or any other form of recording, of sexual activity;
- Allowing others to observe a personal act of consensual sex without knowledge or consent of the partner;
- Engaging in voyeurism (being a “peeping tom”);
- Knowingly or recklessly transmitting an STD or HIV to another person.