FLORIDA GATEWAY COLLEGE

POLICY

TITLE: Title IX Policy, Procedures and Investigations

NUMBER: 6Hx12:6-45

AUTHORITY: District Board of Trustees PAGE: 1 of 6

OTHER: Florida Statutes 1001.64; 1001.65; DATE: See History Below

State Board of Education Rule 6A-19.008

Florida Gateway College is committed to providing an environment that is free from sexual harassment and sexual misconduct. This policy covers a broad range of behavior as defined in this Policy, including sexual harassment, sexual misconduct and retaliation, all of which are prohibited under this Policy as well as State and Federal law and regulations.

As a recipient of federal funds, the College is required to comply with Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681, et. seq. (“Title IX”), which prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX’s prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a person’s ability to equally access our educational programs and activities. Title IX and this Policy applies to students, faculty and staff at FGC. FGC prohibits acts of sexual harassment and misconduct which include, but are not limited to, sexual assault/battery, dating violence, domestic violence, stalking, exploitation, voyeurism, or exhibitionism on any of its campuses. Under Title IX, FGC may discipline students and College employees for acts of sexual harassment and misconduct when:

1. A College employee conditions the provision of College aid, benefits, or services on an individual’s participation in unwelcome sexual conduct. This conduct is commonly known as quid pro quo harassment.
2. The conduct is unwelcome and would be determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the College’s educational program or activity; or
3. The conduct involves acts of sexual assault/battery, dating violence, domestic violence, or stalking as those terms are defined below.

For purposes of this policy, FGC’s educational programs and/or activities include:

1. Educational programs and/or activities which occur on campus premises.
2. Educational programs and/or activities that occur at off-campus premises that the College has substantial control over.
3. Any education programs and/or activities occurring within computer and internet networks, digital platforms and computer hardware or software owned or operated by or used in the operations of FGC over which the College has substantial control.

FGC remains committed to addressing any act of sexual harassment and misconduct if such acts are found to be detrimental to the interests of the College or to interfere with the educational and orderly operation of the College. To the extent the alleged sexual harassment and misconduct falls outside of the Title IX definition of sexual harassment and/or falls outside of the geographic scope of Title IX, the College reserves the right to investigate and adjudicate the alleged sexual harassment and misconduct under the Student Code of Conduct or other applicable Board policies and procedures.

For purposes of this policy, the following definitions apply:

**Sexual Assault/Battery**: Sexual assault means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual assault includes any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

**Sexual Battery** includes any offense involving oral, anal or vaginal penetration by, or union with, the sexual organ or another or the anal or vaginal penetration of another by any other object; however sexual battery does not include an act done for bona fide medical purpose. Sexual battery is an act performed against the victim’s will and consent. Sexual battery includes force that may involve physical violence, coercion, threat or harm.

**Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws, or by any person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws.

**Dating Violence**: Dating violence includes violence (violence includes, but is not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence can occur when one person purposely hurts or scares someone they are dating. Dating violence can be physical, emotional, and/or sexual abuse.

**Stalking** includes engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that individual’s safety or the safety of others or suffer substantial emotional distress. Examples include, but are not limited to, willfully, maliciously, and repeatedly following, harassing, or cyberstalking another person where the victim was targeted due to his or her sex/gender, sexual orientation, or gender identity.

**Exhibitionism** includes exposing or exhibiting sexual organs in any public place or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or incident manner, or so to expose or exhibit his or her person in such place, or to go or be naked in such place.

**Voyeurism** is the condition of one who derives sexual satisfaction from observing the sexual organs or acts of others generally from a secret vantage point.

**Sexual Exploitation** is conduct that involves taking sexual advantage of another person without consent, which includes but is not limited to the use of a person in prostitution, pornography or other sexually manipulative activity.

**Consent** means the 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. Lack of protest or resistance does not mean Consent, nor does silence mean that Consent has been granted. Consent cannot be granted by someone who is mentally defective, mentally incapacitated, or physically helpless.

**Retaliation** includes, but is not limited to, intimidation, threats, coercion, harassment, or other adverse actions threatened towards any person making a complaint of sexual harassment or misconduct, towards any person (including a witness) cooperating in the investigation/hearing of any allegation of sexual harassment or sexual misconduct or towards any person declining to participate in an investigation/hearing related to an allegation of sexual harassment or sexual misconduct. Retaliation is prohibited by the College. Retaliation should be reported promptly and may result in disciplinary action independent of allegations of sexual harassment and misconduct.

The College’s Code of Student Conduct shall include sexual misconduct as an offense subject to disciplinary action. A student accused of an offense of sexual misconduct shall be entitled to the same rights of due process as students accused of other violations of the Code of Student Conduct. In all Student Conduct hearings, the preponderance of the evidence standard is used in determining outcomes.

The administration of the College shall adopt procedures for handling sexual misconduct cases, including the manner in which victims of sexual misconduct will be assisted, which may include interim measures during the investigation and hearing process. Furthermore, the College retains the authority to remove a respondent from an education program or activity on an emergency basis if:

1. The College undertakes an individual safety and risk analysis;
2. The College determines the Respondent(s) pose an immediate, imminent threat to the physical safety or health of any student, staff or faculty, arising from the alleged sexual harassment or misconduct; and
3. The College provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Title IX (and Title VII) expressly prohibit retaliation against anyone who, in good faith, reports what s/he believes is sexual harassment or misconduct, who participates or cooperates in any investigation or who otherwise opposes unlawful conduct believed to be in violation of this policy. Retaliation including intimidation, threats, harassment, or other adverse action threatened towards any person making a complaint of sexual misconduct or against any person (including a witness) cooperating in the investigation of any allegation of sexual misconduct, is prohibited by the College. Anyone who believes s/he has been the victim of retaliation for reporting sexual harassment or sexual misconduct, participating or cooperating in an investigation or otherwise opposing unlawful conduct believed to be in violation of this policy should immediately contact the Title IX Coordinator, who has authority to investigate all such claims. Any individual found to have retaliated against another individual who engaged in conduct consistent with the protections afforded under this policy will be in violation of this policy and will be subject to disciplinary action.

Anyone who knowingly makes a false accusation of sexual harassment or sexual misconduct under this policy will be subject to appropriate sanctions. Failure to prove a claim of sexual harassment or sexual misconduct under this policy does not, in and of itself, constitute proof of a knowingly false accusation.

The administration shall also formulate and implement a comprehensive educational program to assure awareness of the problem of sexual harassment and misconduct, to discourage such acts, and to encourage reporting of such offenses to property authorities.

Inquiries or complaints should be addressed to the Title IX Coordinator, (386) 754-4313, 149 SE College Place, Building 1.

STATUTORY AUTHORITY: 120.54, 1001.41, 1001.42, 1012.23, F.S.

LAW(S) IMPLEMENTED: 112.51, 119.07, 760.01 et seq.,

1000.05, 1000.21, 1001.43, 1012.22, F.S.

34 CFR 99, 34 CFR 108, 34 CFR 200.43(c), P.L., 110-233

20 U.S.C., 1681 et seq., Title IX of the United States Education Amendments of 1972;

42 U.S.C., 2000e et seq., Civil Rights Act of 1964;

29 CFR Parts 1600-1699

STATE BOARD OF EDUCATION RULE(S): 6A-19.008

HISTORY:ADOPTED: 3/9/93; Effective: 3/9/93; Revised: 8/10/99; 3/14/00; 06/12/12, 12/9/14, 7/1/15, 1/12/16, 8/14/25