

As part of New York Film Academy's prevention and awareness efforts and in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act or Clery Act, New York Film Academy is required to provide all students with the definition the terms "dating violence," "domestic violence," "sexual assault," "stalking," and "consent" in reference to sexual activity defined by Florida State.

Once you have reviewed the definitions below, please select "Click here to continue on to the next video within Module 1 of NYFA's Sexual Respect Training" at the bottom of this page to progress. If you have any questions about the Florida State definitions and/or NYFA's policies, please contact the Title IX Coordinator, SBtitle9@nyfa.edu.

FLORIDA STATE DEFINITIONS

The following is a summary of the definitions applicable to Title IX and the Clery Act offenses (sexual assault, dating violence, domestic violence, and stalking) under Florida state law. More information about the Florida state laws can be found here: <https://www.fdle.state.fl.us/FSAC/Crime-Data/>.

Consent

Consent is defined in Florida within the criminal statute related to sexual battery. 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. State of Florida statutes clarify that consent is NOT obtained in the following circumstances:

1. The victim is physically helpless to resist.
2. The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.
3. The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.
4. The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim.
5. The victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact.
6. The victim is physically incapacitated.
7. The offender is a law enforcement officer, correctional officer, or correctional probation officer or is an elected official or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of the government.

Sexual Assault and Rape (Sexual Battery)

Rape and sexual assault are called "Sexual Battery" under Florida criminal law. Sexual Battery is defined as 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; however, sexual battery does not include an act done for a bona fide medical purpose.

For more information about Florida sexual battery statutes visit www.leg.state.fl.us/Statutes (Chapter 794).

Domestic Violence

Defined 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.

“*Family or household member*” means 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 or have in the past resided together in the same single dwelling unit.

Dating Violence

Defined as 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 dating relationship must have existed within the past 6 months;

1. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
2. 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.

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.

Stalking

Defined as a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person. As used in this section, the term:

- *Harass* means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
- *Course of conduct* means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.
- *Credible threat* means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the

person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.

- *Cyberstalk* means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree.

A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree.

A person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, or an injunction for protection against domestic violence pursuant to s. 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree.

A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child under 16 years of age commits the offense of aggravated stalking, a felony of the third degree.

A person who, after having been sentenced for a violation of s. 794.011, s. 800.04, or s. 847.0135(5) and prohibited from contacting the victim of the offense under s. 921.244, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim commits the offense of aggravated stalking, a felony of the third degree.

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*To download a PDF copy of the Florida State's definition of the terms "dating violence," "domestic violence," "sexual assault," "stalking," and "consent" in reference to sexual activity, **click here.***