

TALLAHASSEE COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURES

<p>TITLE: Equal Access/Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment</p>	<p>NUMBER: 03-01-1AP</p>
<p>AUTHORITY: Florida Statute: 1001.64, 1001.65, 1006.35 Florida Administrative Code: 6A-14.060, 6A-19.008 Age Discrimination in Employment Act of 1967, as amended Executive Order 11246, as amended Section 504, Rehabilitation Act of 1973 as amended Title II, Genetic Information Non-Discrimination Act of 2008 Title VI of the Civil Rights Act of 1964, amended 1972 Title VII of the Civil Rights Act of 1964, as amended Title IX of the Education Amendments Act of 1972 Florida Educational Equity Act</p>	<p>SEE ALSO:</p>
<p>DATE ADOPTED: 08/2015; 6/2016; 03/19/18; 08/26/20</p>	<p>PAGES: 7</p>

A. PURPOSE

To provide a procedure for review, investigation and resolution of discrimination, sexual misconduct (excluding Title IX Sexual Harassment) and unlawful harassment complaints related to applicants, faculty/staff, students, vendors, or guests of the College.

B. DEFINITIONS

Complainant – is an individual who is alleged to be the victim of conduct that could constitute a violation of College policy.

Determination – is the conclusion of a dispute by the rendering of a final decision.

Discrimination - is defined as treating any member of the College community differently than others on the basis of age, color, disability, ethnicity, gender identity, genetic information, marital status, national origin, pregnancy, race, religion, sex, sexual orientation, veteran status or other legally protected classifications. Conduct which falls under the definition of discrimination and which is prohibited by this policy includes, but is not limited to:

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1. Disparate treatment in employment, job placement, promotions, demotions, salaries or wages, benefits, or other terms and conditions of employment, on the basis of one of the protected categories outlined above, or
2. Limiting a person's access to educational, athletic, social, cultural or other activities of the college on the basis of one of the protected categories outlined above.

Formal Complaint – is a document filed by an identified complainant or signed by the Equity Officer/Title IX Coordinator alleging discrimination, sexual misconduct, or unlawful harassment against a respondent and requesting that the College investigate the allegations.

Preponderance of Evidence Standard – is an evidence standard which means concluding that a fact is more likely than not to be true.

Respondent – is an individual who has been reported to be the perpetrator of conduct that could constitute a violation of College policy.

Retaliation - is any adverse action taken against the person(s) who makes, supports, or participates in a complaint of discrimination, sexual misconduct, or unlawful harassment.

Sexual Misconduct – includes, but is not limited to, sexual violence, (which includes any kind of nonconsensual sexual contact), sexual harassment, sexual exploitation or any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing.

- a. **Sexual Violence** - is sexual offenses as outline in the Uniform Crime Reporting Handbook, and defined as any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- b. **Sexual Harassment** - is defined as any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature when:
 1. Submission to or rejection of such conduct is used explicitly or implicitly as a basis for any decision affecting terms or conditions of an individual's employment, academic status, participation in any program or activity, or receipt of College services; or
 2. Such conduct has the purpose or effect of interfering with an individual's work performance or academic experience by creating an intimidating, hostile, or offensive environment for work or learning.

Sexual harassment can occur between any persons including faculty/staff, students, vendors, or guests.

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- c. **Sexual Exploitation** - is defined as taking non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the sexual misconduct offenses.

Supportive Measures – are individualized services offered to the complainant or respondent, as appropriate, that are reasonably available and without fee or charge. These services are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter discrimination, sexual misconduct and unlawful harassment.

Title IX Sexual Harassment – includes the following behaviors with respect to participation in the College’s education programs or activities, which include locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurred. Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- a. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., *quid pro quo*); or
- b. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity; or
- c. Sexual assault (as defined in the Clery Act), or dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA).

Unlawful Harassment - is defined as conduct that is a) unwelcome and b) unreasonably interferes with an individual’s ability to learn or work due to the creation of an intimidating, hostile, or offensive environment.

C. GENERAL PROVISIONS

1. This procedure pertains to claims of discrimination, sexual misconduct (excluding Title IX Sexual Harassment) and unlawful harassment as outlined in College Policy 03-01.
2. The College will use a preponderance of evidence standard for resolving any conflicts in the evidence, and deciding the facts of the complaint.
3. The College Equity Officer/Title IX Coordinator is the College’s primary internal authority for matters related to this procedure; with responsibility to ensure equal access and equal opportunities for applicants, faculty/staff, students, vendors, or guests of the College.

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4. Supporting Committee - In an effort to continuously improve the way the College responds to complaints of discrimination, sexual misconduct and unlawful harassment, the College's Clery Committee shall meet quarterly to review the College's complaint log, ensure compliance with federal and state regulations, and College policy and procedure. The Clery Committee includes, but is not limited to, the following personnel or their designee; the Director of Student Services, the Director of Human Resources, the Director of Athletics, the College Police Chief and the Equity Officer/Title IX Coordinator.
5. To utilize this procedure, the following jurisdictional requirements must be met; the alleged complainant is a College employee or an individual participating in a College educational program or activity; which includes locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the discrimination, sexual misconduct, or unlawful harassment occurred.

D. REPORTING

The College strongly encourages ALL persons to promptly report any occurrence of discrimination, sexual misconduct, or unlawful harassment. The registering of a complaint will not be used or held against the complainant, nor will it have an adverse impact on the complainant's educational or employment status.

1. Complaints of discrimination, sexual misconduct, or unlawful harassment involving applicants, faculty/staff, students, vendors, or guests should be filed within 180 days from the date of the incident via Tallahassee Community College's (TCC) on-line Complaint Form, or directly with the College's Equity Officer/Title IX Coordinator at (850) 201-6074, or tolsonr@tcc.fl.edu, or postmark to:

Tallahassee Community College
Attn: Renae Tolson, Equity Officer & Title IX Coordinator
Room 239 Administration Building
444 Appleyard Drive
Tallahassee, FL 32304-2895

2. Any College personnel, student, vendor or guest who becomes aware of an alleged conduct of discrimination, sexual misconduct, or unlawful harassment must report this information immediately to the College's Equity Officer/Title IX Coordinator.
3. The College will offer supportive measures to both the complainant and respondent as appropriate; designed to ensure equal employment opportunities, equal educational access, protect safety, or deter sexual harassment.
4. Submission of a written complaint (Formal Complaint) is required for the College to investigate allegations of discrimination, sexual misconduct and unlawful harassment. A

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Formal Complaint can be filed by a complainant, or signed by the Equity Officer/Title IX Coordinator. The complainant's wishes with respect to whether the College investigates will be respected unless the Equity Officer/Title IX Coordinator determines that the College should initiate a Formal Complaint and investigation over the wishes of the complainant in light of known circumstances.

5. Upon receipt of a Formal Complaint a review of the allegations will be made to determine if the complaint meets the requirements of this procedure and Policy 03-01, or if other policy violations may be indicated and other procedures should be followed.
6. Once determined to be discrimination, sexual misconduct (excluding Title IX Sexual Harassment), or unlawful harassment, the College will send written notice to both parties (complainant and respondent) of the allegations. The College may consolidate Formal Complaints where the allegations arise out of the same facts, and will not investigate a new complaint if it has already adjudicated a Formal Complaint based on the same circumstances.
7. All complaints of discrimination, sexual misconduct, or unlawful harassment will be logged in the TCC Equity and Civil Rights Complaint Log. The log will include the complaint number, complainant's name, person whom the complaint is filed against, incident date(s), brief summary, and the determination/resolution. The Equity Officer/Title IX Coordinator is the official custodian of the log.

E. INVESTIGATING

1. For complaints subject to this procedure, the Equity Officer/Title IX Coordinator will coordinate with TCC's Police Chief, the Director of Student Services, the Human Resources Director, or designee and/or other personnel as appropriate to facilitate a prompt, impartial and confidential investigation.
2. The Equity Officer/Title IX Coordinator will assign one of the College's trained investigators as the College's Investigating Official of record for the complaint. The College's Investigating Official will follow state and federal guidelines, College Policy, Administrative Procedure 03-01-1AP, and the Student Code of Conduct, as appropriate, in reviewing the complaint.
3. Complainants have 10 work days to provide additional information if their initial complaint does not contain sufficient information for a thorough review
4. Complaints must be filed within 180 calendar days of an alleged discriminatory or retaliatory act.
5. Investigations will be completed within 60 calendar days from the date the complaint was filed, unless otherwise agreed upon by the parties or upon extenuating circumstances.

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6. Complaints can be withdrawn by complainant; however, the College reserves the discretionary right to continue with its investigation.
7. Anonymous complaints are accepted as long as they contain sufficient information to facilitate a thorough review of the allegations.
8. At the conclusion of the investigation, the Investigating Official will send the investigative report, including proposed resolution, to the College Equity Officer/Title IX Coordinator for review, and determination.
9. Upon filing a complaint of discrimination, harassment or retaliation with an external, governmental agency, the internal complaint may be referred to the College's Counsel for review, defense or, if deemed appropriate, mediation, conciliation, or settlement with the external agency, or such other actions as may be in the interests of the College, including the termination of the internal process.

F. RESOLUTION

1. The College will take steps to prevent the recurrence of any discrimination or harassment found to have occurred upon an investigation, and to correct its discriminatory effects on the complainant and others, if appropriate.
2. Once the complaint determination is made by the Equity Officer/Title IX Coordinator, written notification will be provided to both the complainant and respondent, informing them of the outcome of the investigation and the subsequent appeals process.
3. If the decision regarding an employee or student complaint is not satisfactory to the complainant or respondent, it may be appealed to the Equity Appeals Committee (Appeals Committee) only on the grounds of procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or investigators or decision makers had a conflict of interest or bias that affected the outcome of the matter. The complainant or respondent must file a written appeal to the Equity Office within seven (7) calendar days after receipt of a written determination of responsibility or notification of dismissal. The appeal must include all salient facts.
4. The Appeals Committee will be a five (5) member committee, consisting of the Human Resources Director, Chief of Police, Associate Vice President of Academic Affairs, Director of Communications and the Student Services Conduct Officer. If the Director of Human Resources is involved in the case, such that it would deem them unable to participate in the appeal process, the Assistant Vice President of Administrative Services will replace the Director of Human Resources on the Appeals Committee. If the Student Services Conduct Officer is involved in the case, such that it would deem them unable to participate in the appeal process, the Dean of Student Services will replace the Conduct

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Officer on the Appeals Committee.

5. The Appeals Committee will review the complaint based on any documents submitted into evidence. The Appeals Committee will issue a final appellant decision to the parties within fourteen (14) calendar days of receiving the appeal. The decision of the Appeals Committee will be final and binding.

G. RETALIATION

1. Retaliatory acts include adverse actions taken against the person who makes, supports or participates in a complaint of discrimination, sexual misconduct, or harassment.
2. Students and/or employees who believe that retaliatory actions have been taken against them for having filed a complaint of discrimination, sexual misconduct, or harassment, or having provided testimony in an investigation should notify the College's Equity Officer/Title IX Coordinator. Any such reports will be investigated and findings of retaliatory conduct will be dealt with through appropriate action.

H. CONFIDENTIALITY/PUBLIC RECORDS

1. All information regarding discrimination, harassment, retaliation, and sexual misconduct will remain confidential to the extent possible to provide for an effective investigation, and as allowed by law.
2. Only those individuals necessary for the investigation and resolution of the complaint shall be involved. All parties to the complaint, including witnesses, should treat the matter under investigation with discretion and have respect for the reputation of everyone involved.
3. Written records developed through the use of this internal complaint process are confidential in accordance with state law until a final determination is made.