



Sexual Misconduct Guide

TALLAHASSEE COMMUNITY COLLEGE

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Introduction

Tallahassee Community College (herein after called TCC or the College) strives to provide work and study environments for students, faculty, and staff that are free of discrimination, and sexual misconduct, including sexual harassment, and other unlawful harassment. As part of the effort to maintain an environment that is comfortable for all people, TCC Board of Trustees has established a Sexual Misconduct Policy; TCC Policy 03-01 - Equal Access/Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment.

We are committed to maintaining a positive learning, working, and living environment and will not tolerate acts of sexual misconduct, including sexual violence, sexual harassment, sexual exploitation, or related retaliation against or by any employee or student. When sexual misconduct of any kind has occurred and is brought to the attention of TCC, the College will take steps to end the misconduct; harassment or violence, prevent its reoccurrence, and address its effects.

This guide provides an overview of the policy, the reporting and review process, and resources available for the involved parties.

TCC BOT Policies provide direct guidance for the College community and are the controlling documents regarding Sexual Misconduct including Sexual Violence, Sexual Harassment and Sexual Exploitation.

What is Sexual Misconduct?

For the purpose of this guide, Sexual Misconduct includes, but is not limited to sexual violence, (which includes any kind of nonconsensual sexual contact, or attempts to commit same), 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.

What is Sexual Violence?

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.

Rape - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances in which the victim is incapable of giving consent.

Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

Incest - Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape - Nonforcible sexual intercourse with a person who is under the statutory age of consent.

NOTE: The above listed crime definitions from the Uniform Crime Reporting Handbook, 2013 Revised UCR definition of Rape, as prescribed by 2014 VAWA Negotiated Rulemaking Final Consensus Language.

What is Sexual Harassment?

Verbal or physical conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment is considered harassment. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Both the victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

www.eeoc.gov/laws/types/sexual_harassment.cfm

Who Can Be Involved?

Examples of sexual harassment include, but are not limited to:

- An instructor suggests that a higher grade might be given to a student if the student submits to sexual advances
- A supervisor implicitly or explicitly threatens termination if a subordinate refuses the supervisor's sexual advances
- A student repeatedly follows an instructor or student around campus and sends sexually explicit messages to the instructor's or students voicemail, email, or cell phone
- A student or employee touches you in an unwelcoming manner or comments about your body in person, on the phone, or in any other way
- A student or employee records you engaged in sexual activity without your consent
- A student or employee exposes their sexual organs to you without your consent and in an unwelcomed manner

What is Sexual Exploitation?

Taking non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage any one other than the one being exploited, and that behavior does not otherwise constitute one of the sexual misconduct offenses.

TCC recognizes that consensual amorous or sexual relationships between two people of unequal position or power (e.g. between a supervisor and an employee, faculty member and student, or staff member and student) may occur. Such relationships may become exploitative, or lead to charges of sexual harassment, or being accused of having a conflict of interest.

Who Can Be Involved?

Sexual misconduct can involve anyone interacting with our campus community, including but not limited to:

- Faculty Member / Faculty Member
- Faculty Member / Student
- Faculty Member / Staff Member
- Teaching Assistant / Student
- Student / Student
- Staff Member / Staff Member
- Staff Member / Student
- Administrator / Faculty Member
- Administrator / Staff Member
- Administrator / Student
- Supervisor / Employee

Filing Complaint or Report (Internal)

If you believe that you are the victim of sexual misconduct (violence, harassment, or exploitation), TCC strongly encourages you to file a complaint. Depending on the circumstances, the filing of a complaint or report of sexual misconduct may be voluntary or compulsory.

Complaints should be filed with one of the following designated offices within the TCC system:

- **Students:** Student complaints of discrimination, retaliation, sexual misconduct, or unlawful harassment by and against students should be filed promptly with the Conduct and Community Standards Officer or directly to the College Equity Officer and Title IX Coordinator.
- **Employees:** Faculty or staff complaints of discrimination, retaliation, sexual misconduct, or unlawful harassment involving faculty or staff should be filed promptly with the Director of Human Resources or directly to the College Equity Officer and Title IX Coordinator.

You may file a complaint directly with TCC Campus Police, or other local police department to initiate a criminal investigation. Depending on the details of the complaint, the case may be referred to one of the offices indicated above.

Filing Complaint or Report (External)

Any person may file an external complaint with the following agencies:

- U.S Equal Employment Opportunity Commission, U.S Department of Education, Office for Civil Rights, Atlanta, Ga
(404) 562-6358,
TDY (404) 562-6454
- U.S Department of Labor, Office of Federal Contract Compliance Programs, Orlando, FL
(407) 648-6181
TTY (877) 889-5627
- Florida Commission on Human Relations, Tallahassee, FL
1 (800) 342-8170,
TDD ASCII 1 (800) 955-1339
TDD BAUDOT 1 (800) 955-8771

If you have questions, please visit the websites of these agencies, or contact TCC's Equity Officer and Title IX Coordinator in person or post marked to, 444 Appleyard Drive, Room 239 Administration Building, Tallahassee, FL 32304

Third Party Reporting

Any TCC employee with supervisory authority on campus must refer reports of sexual misconduct, or other gender-based harassment to the Student Conduct and Community Standards Officer, the Human Resources Director, or directly to the College Equity Officer and Title IX Coordinator. The only exception to the obligation to report applies to confidential counseling resources, including those provided by the Mental Health Counselor, and the Employee Assistance Program.

The Review Process

If you are a TCC student or employee and have been the victim of sexual misconduct, or other gender-based harassment, it is important that you read the following information. Although not intended to be a comprehensive explanation of your options and rights, this information may be useful to you.

Sexual misconduct; sexual violence, sexual harassment, sexual exploitation, and other gender-based harassment occurring in the college setting implicates a federal law called Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex (gender) in education programs or activities and which triggers certain responsibilities on the part of TCC. TCC has a Title IX Coordinator who can help explain TCC's responsibilities in these cases (see the officer contact information in Resources).

The Student Conduct and Community Standards Officer, the College's Human Resources Director, the College's Equity Officer and Title IX Coordinator, and TCC Campus Police have the authority to address complaints of sexual misconduct, including sexual violence, sexual harassment and sexual exploitation in a non-criminal context. The TCC review process is completely separate from the police and courts. Within TCC, the identity of the respondent determines which of the offices handles the case. When the respondent is a student at the time of the incident, the Student Conduct and Community Standards Officer provides a

The Review Process (cont.)

student conduct process for investigating those cases whether they occur on or off campus. When the respondent is an employee, the Human Resources Director or designee will conduct the initial investigation. Offices referenced above will work together to resolve complaints as needed. All complaints, including recommendation for resolution, regarding discrimination and sexual misconduct will be reviewed by the College's Equity Officer and Title IX Coordinator. Offices referenced above will work together to resolve complaints as needed. When the respondent is neither a student nor employee, TCC can still assist you with counseling and other support services.

Note: The College community, including students, faculty, administrators, staff, vendors and the public may, at any time, file a complaint directly with the College's Equity Officer and Title IX Coordinator.

If you are uncertain about which office to contact, you may call either office and they will ensure your complaint is ultimately reviewed by the appropriate personnel and a determination response rendered which may include counseling, mediation, and/or referral for disciplinary action (up to and including termination from employment and/or expulsion from TCC). Additionally, the reviewing office will report any conduct that may be criminal in nature to the appropriate law enforcement entities.

The Review Process *(cont.)*

Student Conduct and Community Standards Officer, and the Human Resources Director or designee will review the allegations and determine an appropriate course of action. The determination and proposed course of action will be reviewed by the College's Equity Officer and Title IX Coordinator. Some cases can be handled informally and outside of the formal investigative process. When cases result in an investigative process, the investigations are conducted by individuals who have received specialized training in those types of investigations. All investigations will be conducted in a thorough and neutral manner.

When made aware of sexual misconduct, TCC may have an obligation to proceed with an investigation, regardless of a complainant's wishes, in order to ensure campus safety. Complainants are not required to participate if you choose not to; however, this may limit the College's ability to respond to the incident. If you request that your name or other identifying information not be used in an investigation, TCC will consider your request in light of the context of its responsibility to provide a safe and nondiscriminatory environment. In most cases, information including your name may be shared with the respondent, witnesses, and with College officials who have legitimate need to know.

Beyond that, TCC will take steps to protect your identity and the identity of all individuals involved.

The Review Process *(cont.)*

A complainant may be accompanied by an advisor during any meeting. The advisor may be an attorney or any support person. In the College's process, the complainant and respondent will not be permitted to directly question each other and are not required to be present together at any point. Both a complainant and a respondent have the right to identify witnesses and provide other information relevant to the investigation. TCC will decide the case based on a preponderance of the information standard (whether or not it is more likely than not that the conduct occurred).

In most cases, TCC will not wait until a criminal case is resolved before proceeding with investigation of the case. In addition, if a college official has a reasonable belief that a crime has been committed, she or he may be obligated to report that to law enforcement, if police have not already been notified. In cases where a police investigation has been conducted or is being conducted for sexual assaults, law enforcement may be able to provide information to TCC with the victim's consent. TCC's fact-finding investigation may be delayed for a short period of time upon a request from law enforcement, but will promptly resume as soon as possible.

The College will use best efforts to resolve sexual misconduct within 60 days, but depending on the complexity of the case up to 90 days may be necessary. The College will keep a complainant advised as to the status of

The Review Process *(cont.)*

the case as the complainant desires and as is reasonable. The complainant will be informed of the outcome of the case in writing.

Because the school's primary concern is student safety, minor alcohol and drug violations by a complainant revealed in an investigation will be handled informally whenever possible. The use of alcohol or other drugs never makes an individual at fault for sexual violence.

TCC will take interim steps to protect a complainant while the case is pending. Depending on the case and the complainant's wishes, these steps may include class changes, ordering a respondent to not have contact with you, excluding a respondent from parts of campus, or providing an escort to accompany you on campus. Any adjustments made will be designed to minimize the burden on the complainant's educational program. Some of these actions may also be remedies in those cases resulting in a finding of a policy violation.

TCC has a policy which prohibits retaliation against any employee or student who reports an incident of alleged sexual misconduct, or any employee or student who provides testimony, assists or participates in a proceeding, investigation or hearing relating to these allegations. Respondents are informed of this provision, and any retaliation should be reported immediately TCC's Equity Officer and Title IX Coordinator.

Equal Support for Involved Parties

If both individuals involved are TCC students and/or employees, TCC has a duty to work with/support both individuals through the process.

If an incident reaches the level of interfering with the orderly functions of the College or affecting the safety and wellbeing of the community or its individuals, it might be necessary to temporarily restrict the respondent from campus until the case can be resolved.

LGBTQ Statement

TCC strives to promote the safety and well-being of all students and employees. The information in this guide is applicable to students and employees regardless of their sexual orientation, gender identity, or gender expression.

Glossary

Complainant

A person who is subject to alleged Protected Class discrimination, harassment or related retaliation.

Harassment

Verbal or physical conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work/educational environment (*see Hostile Environment as defined below*).

Hostile Environment

Unwelcome conduct by an individual(s) against another individual based her/his Protected Class that is sufficiently severe or pervasive that alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive.

Glossary *(cont.)*

Protected Class

TCC strives to provide a work and study environment for faculty, staff and students that is free from discrimination and harassment on the basis of race, color, marital status, sex, religion, national origin, disability, age, or genetic information and harassment based on sexual orientation, as well as gender identity and expression.

Respondent

A person who is accused of Protected Class discrimination, harassment, or related retaliation.

Retaliation

Retaliation is an individual(s) taking an adverse action against someone because that person has filed a complaint or participated in a protected class investigation. Retaliation is prohibited by BOT Policy 03-01 - Equal Access/Opportunity, Discrimination, Sexual Misconduct and Unlawful Harassment.

Glossary *(cont.)*

Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Supervisor

A supervisor is anyone who has the authority to hire, promote, discipline, evaluate, grade or direct faculty, staff or students. This includes anyone who manages or supervises others, including, but not limited to faculty, teaching assistants, resident advisors, coaches and anyone who leads, administers, advises or directs college programs.

Unlawful Discrimination

Occurs when an individual suffers an adverse consequence, such a failure to be hired or promoted, denial of admission to an academic program, etc., on the basis of her/his Protected Class.

Contacts & Resources (TCC)

Campus and Civic Engagement

Michael Coleman, Director
Student Union, Room 154
colemanm@tcc.fl.edu

Equity Officer and Title IX Coordinator

Renae Tolson
Administration Building, Room 239
tolsonr@tcc.fl.edu

Human Resources Director

Audrey Mathews
Administration Building, Room 149
mathewsa@tcc.fl.edu

Mental Health Counselor

Dr. Anika Fields
Student Union, Room 200
fieldsa@tcc.fl.edu

Student Conduct and Community Standards Officer

Wyntress Patterson
Student Union, Room 154
pattersw@tcc.fl.edu

Vice President of Student Affairs

Sally Search
Student Union, Room 203
searchs@tcc.fl.edu

The Office of Disability Support Services

Student Union, Room 172
DSS@tcc.fl.edu

TCC Police Department

Center Building, Second Floor
(850) 201-6100