



November 17, 2014

MEMORANDUM

TO: District Board of Trustees
FROM: Jim Murdaugh, President 
SUBJECT: College Policy Update

Item Description

This item requests Board approval for policy addition and update to Chapter 3.0 – General Administration.

Overview and Background

The College brings forth a request to update Policy 03-01 – Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment and add Policy 03-35 – Domestic Violence, Dating Violence, and Stalking.

Highlights of policy additions and revisions are as follows:

- Policy 03-01 - This policy is recommended for update to remove section "D.3.d.", appeal to the Board.
- Policy 03-35 - This policy is recommended to be added to the College's policies. As a result of § 741.28, 784.046, 784.048, and 741.313, F.S., a formal policy has been drafted to guide the College community in handling issues regarding domestic violence, dating violence, and stalking.

Past Actions by the Board

The Board previously revised Policy 03-01 on August 20, 2012. The Board has taken no previous action on proposed Policy 03-35.

Funding/Financial Implications

No funding required.

Staff Resource

Teresa Smith

Recommended Action

Approve addition and revision to College policy.

**TALLAHASSEE COMMUNITY COLLEGE
DISTRICT BOARD OF TRUSTEES
P O L I C Y**

<p>TITLE: Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment</p>	<p>NUMBER: 03-01</p>
<p>AUTHORITY: Florida Statute: 1001.64, 1001.65, 1006.35, 1006.67 Florida Administrative Code: 6A-14.0262, 6A-14.060, 6A-19.008 Age Discrimination in Employment Act of 1967, as amended Executive Order 11246 Section 504, Rehabilitation Act of 1973 as amended Title II, Genetic Information Non-Discrimination Act of 2008 Titles VI and VII of the Civil Rights Act of 1964, amended 1972 Title IX, Education Amendments of 1972 Florida Educational Equity Act of 1984, as amended</p>	<p>SEE ALSO:</p> <ul style="list-style-type: none"> • Administrative Procedure 03-01AP: Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment
<p>DATE ADOPTED: 12/01/97; revised 01/22/01; 09/21/09; 08/20/12</p>	

A. EQUAL OPPORTUNITY

Tallahassee Community College (TCC) does not discriminate against any person on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, marital status, disability, or age in its programs and activities.

As an institution of higher education, the College reaffirms its policies of equal opportunity and open admissions, and is committed to maintaining and promoting nondiscrimination in all aspects of its programs and activities. The College has an Equity Plan to ensure equal access/equal opportunity to all individuals and has designated a College Equity Officer to ensure compliance with applicable TCC Policy, State and Federal laws.

The College will broadly publish and circulate its policy of equal access/equal opportunity by including the policy in correspondence, media communication, and printed matter. The College will engage the services of only those professional organizations, employment agencies, contracts, or other agents whose policies are in alignment with the equal opportunity policy of the College.

B. POLICY STATEMENT

1. The College is committed to having a learning and working environment that is free of discrimination, sexual misconduct, and unlawful harassment. Discrimination, sexual misconduct, or harassment of students or employees in the learning and/or working environment will not be tolerated. Accordingly, members of the college community, including students, faculty, administrators, staff, vendors and the public can expect professional and courteous treatment at all times.
2. It shall be a violation of this policy for a student, faculty member, administrator, or staff member of the College to discriminate against, participate in sexual misconduct, or harass another student, faculty member, administrator, staff member, or vendor.
3. The College will not tolerate retaliation against employees or witnesses for filing complaints, or protesting practices which are prohibited under this policy.
4. Terms and conditions of employment based on a bona fide occupational requirement or distinction (i.e. gender specific restrooms, athletic activities, or other areas) is not a violation of this policy.
5. Discrimination, sexual misconduct, and unlawful harassment on the part of vendors toward any member of the College community will not be tolerated. Vendors will be required to promptly investigate claims of discrimination, sexual misconduct, or harassment reported against their employees or subcontractors.

C. DEFINITIONS

1. Discrimination is defined as treating any member of the College community differently than others on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, marital status, disability, age 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:

- a. Disparate treatment in employment, job placement, promotions, demotions, salaries or wages, benefits, terms and conditions of employment, on the basis of one of the protected categories outlined above in III(A).
 - b. Limiting a person's access to athletic, social, cultural or other activities of the college on the basis of one of the protected categories outlined above in III(A).
2. Sexual Misconduct is defined as a range of behaviors including rape, sexual assault (which includes any kind of nonconsensual sexual contact), sexual harassment, intimate partner violence, stalking, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing.

- a. 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, 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 students, faculty, administrators, staff, vendors, or visitors.

Sexual harassment can be verbal, visual, or physical. Conduct which falls within the definition of sexual harassment may include, but is not limited to:

- Unwelcome physical contact of a sexual nature, such as patting, pinching, or nonconsensual touching of another's body.
 - Verbal innuendoes or jokes of a sexual nature including graphic or degrading comments about an individual or his/her appearance.
 - Sexual assaults or batteries
 - Overt or implied requests for sexual favors as a condition of employment or for continued employment or preferences in the workplace.
 - Use of suggestive gestures or remarks to describe a person's body, clothing or sexual activity.
 - Display or posting of sexually explicit or suggestive photographs or materials in the workplace.
3. 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.
 - a. Unlawful harassment may include, but is not limited to:
 1. Offensive treatment
 2. Demeaning language
 3. Objectionable epithets
 4. Threatened or actual physical harm or abuse
 5. Intimidating or insulting conduct

D. REPORTING, INVESTIGATION, AND RESOLUTION

The College strongly encourages persons to promptly report violations of this policy as outlined below and commits that a thorough review will be undertaken with the ultimate goal of resolution.

1. Duty to Report

- a. Complaints of discrimination, retaliation, sexual misconduct, or unlawful harassment by and against students should be filed promptly with the Student Judicial Advisor. Complaints of discrimination, retaliation, sexual misconduct, or unlawful harassment involving faculty or staff should be filed promptly with the Director of Human Resources/College Equity Officer.
- b. Administrators and supervisors who become aware of an alleged conduct of discrimination, sexual misconduct, unlawful harassment, or retaliation must immediately report this information to the appropriate intake person named above.
- c. All complaints of discrimination and unlawful harassment received by the Student Judicial Officer or College Equity Officer will be logged. The log will include the complainant's name, person whom the complaint is filed against, incident date(s), brief summary, and the resolution. The College Equity Officer is the official custodian of the log.
- d. The Student Judicial Advisor will submit all student complaints, including resolution, to the College Equity Officer for review and inclusion in the log on a monthly basis.
- e. The Student Judicial Advisor and College Equity Officer shall meet each quarter to review the complaint log.

2. Investigation

- a. Upon receipt of a complaint, the Student Judicial Advisor or College Equity Officer will conduct a prompt and confidential investigation. The registering of a complaint will not be used or held against the student or employee, nor will it have an adverse impact on the complainant's educational or employment status.
- b. ~~For matters involving employees, the investigating official (College Equity Officer or designee) will submit findings for review at Step Four of the College's Grievance Procedure 06-16. submit a written report to the appropriate Vice President (VP) as soon as possible, not to exceed 30 working days of receiving the written complaint. The report will include findings, a conclusion as to whether this policy has been violated, and a recommendation of the appropriate action to be initiated.~~

- c. For matters involving students, the Student Judicial Advisor will follow the guidelines of the Student Code of Conduct in reviewing the complaint. The Student Judicial Officer will send the investigative report to the College Equity Officer for input and approval prior to sending the findings and recommendations to the Vice President of Student Affairs. ~~The Student Judicial Officer will keep the Vice President for Student Affairs apprised of the review process.~~

3. Resolution

- a. For matters involving employees, the College will follow the guidelines of the College's Grievance Procedure 06-16. ~~once the recommendation of the College Equity Officer is approved by the appropriate VP, the complainant will be advised of the results of the investigation.~~
- b. For matters involving students, once the recommendation of the Student Judicial Officer is reviewed by the College Equity Officer and approved by the Vice President of Student Affairs, the complainant will be advised of the results of the investigation.
- c. If the decision regarding the student complaint is not satisfactory for the complainant, it may be appealed to the President. The complainant must file a written appeal to the President within seventen days after the decision is rendered. The President may adjudicate the complaint based on the records or may call witnesses or examine other documents as deemed necessary.
- ~~d. If the President's decision is not satisfactory for the complainant, it may be appealed to the District Board of Trustees (Board). The complainant must file a written appeal to the President within ten days after receipt of the President's decision. The President shall submit to the Board the request for appeal and a copy of the record for their consideration at a regular or special meeting. The decision of the Board shall be made on the record and shall be final.~~

E. RETALIATION

Retaliatory acts include adverse actions taken against the person who makes or supports a complaint of discrimination, sexual misconduct, or harassment.

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 Equity Officer. Any such reports will be investigated and findings of retaliatory conduct will be dealt with through appropriate action.

F. 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.

G. FALSE COMPLAINTS

Any person who knowingly files a false complaint of discrimination, harassment, retaliation, or sexual misconduct against another will be in violation of this policy.

H. DISCIPLINE

Violation of this policy shall result in appropriate corrective and/or disciplinary action.

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approval prior to sending the findings and recommendations to the Vice President of Student Affairs.

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- a. For matters involving employees, the College will follow the guidelines of the College's Grievance Procedure 06-16.
- b. For matters involving students, once the recommendation of the Student Judicial Officer is reviewed by the College Equity Officer and approved by the Vice President of Student Affairs, the complainant will be advised of the results of the investigation.
- c. If the decision regarding a student complaint is not satisfactory for the complainant, it may be appealed to the President. The complainant must file a written appeal to the President within seven days after the decision is rendered. The President may adjudicate the complaint based on the records or may call witnesses or examine other documents as deemed necessary.

E. RETALIATION

Retaliatory acts include adverse actions taken against the person who makes or supports a complaint of discrimination, sexual misconduct, or harassment.

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 Equity Officer. Any such reports will be investigated and findings of retaliatory conduct will be dealt with through appropriate action.

F. 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.

G. FALSE COMPLAINTS

Any person who knowingly files a false complaint of discrimination, harassment, retaliation, or sexual misconduct against another will be in violation of this policy.

H. DISCIPLINE

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P O L I C Y**

TITLE: Domestic Violence, Dating Violence, and Stalking	NUMBER: 03-35
AUTHORITY: Florida Statutes: 741.28, 784.046, 784.048, 741.313 Title IX of the Education Amendments of 1972 Title VII of the Civil Rights Act of 1964, amended 1972	SEE ALSO:
DATE ADOPTED: 11/17/2014	

A. POLICY STATEMENT

Tallahassee Community College (TCC) strongly disapproves of violence against women, men or children in any form, whether as an act of workplace violence or in any student’s or employee’s personal life.

The College recognizes that domestic violence, dating violence, and stalking are society issues and impact the campus and workplace even when incidents occur elsewhere. Domestic violence can spill over into the workplace, compromising the safety of both victims and co-workers.

Tallahassee Community College is committed to full compliance with all applicable laws governing domestic violence in the workplace, to promoting the health and safety of its employees, and to making a significant and continual difference in the fight to end domestic violence.

The College will broadly publish and circulate its domestic violence policy and/or procedure. Additionally, the College will train TCC students and personnel on this policy and will provide continuing educational opportunities.

The College will contract with or engage the services of those professional organizations, employment agencies, or other entities whose policies are in accord with the domestic violence, dating violence, and stalking policy of the College. Additionally, this policy will be interpreted and applied in accordance with all applicable local, state and federal laws.

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B. DEFINITIONS:

For purposes of this policy, the following terms will be defined as follows:

“Domestic Violence” has the same meaning as in Section 741.28(2), Florida Statutes (2013, as may be amended) which, for ease of reference, has been copied as follows: *Domestic violence means 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.*

“Dating Violence” has the same meaning as in Section 784.046(1), Florida Statutes (2013) as follows: *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:*

1. *A dating relationship must have existed within the past 6 months;*
2. *The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and*
3. *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.*

“Stalking” has the same meaning as in Section 784.048(2), Florida Statutes (2013), as may be amended) portions of which, for ease of reference, have been copied as follows: *A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking.*

“Family or Household Member” has the same meaning as in Section 741.28(3), Florida Statutes (2013) which, for ease of reference, has been copied as follows: *“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.*

“Perpetrator”, “Batterer” or “Abuser” means the individual who commits, has committed, or threatens to commit an act of violence.

“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. Section 784.048(1), Florida Statutes 2013

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“Victim” and “Survivor” mean an individual who is currently subject to, or has in the past been subjected to, Domestic Violence and/or Sexual Violence and/or Stalking.

“Violence” means any or all of the following, collectively: Domestic Violence, Dating Violence, and Stalking.

“Workplace and campus” means any location where a student attends class or where faculty or staff performs College work related duties, including College facilities, College vehicles, College premises, and College-sponsored events.

C. RESPONSE TO VICTIMS

The College recognizes that students, faculty or staff members who are victims of violence may experience temporary difficulty fulfilling student or work responsibilities. If the College becomes aware that a student, faculty or staff’s work performance or conduct has been impacted by domestic violence, dating violence, or stalking, the College will offer support to the student, faculty or staff and work in collaboration with the student, faculty or staff to address the issues, in accordance with established policies.

D. DISCRIMINATION AND RETALIATION

The College shall not discriminate in hiring, staffing, or other terms and conditions of employment or student activity against any student, faculty or staff for disclosing his or her status as a victim of violence or for submitting a complaint or disclosing concerns about violence to the College.

The College shall not retaliate or take adverse employment actions against any student, faculty or staff for submitting a complaint pursuant to this policy, for disclosing his or her status as a victim, or for actions of violence perpetrated by another against a student, faculty or staff that occur in or have an impact on the campus or workplace.

E. LEAVE AND OTHER WORKPLACE ASSISTANCE

The College will make every reasonable effort to assist a student, faculty or staff to maintain employment when the student, faculty or staff is experiencing or has experienced violence on campus or in the workplace, or has experienced violence outside the campus or workplace, or is assisting a family member who has experienced domestic violence, dating violence or stalking.

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The College will work in collaboration with the student, faculty or staff member to provide reasonable and flexible leave options when a student, faculty or staff, or a child, spouse, or parent of a student, faculty or staff, is a victim of domestic violence, sexual violence, dating violence, and stalking.

As per Florida Statutes, Section 741.313(2), the College shall permit an employee to request and take up to 3 working days of paid leave from work in any 12-month period if the employee or a family or household member of an employee is the victim of domestic violence or sexual violence.

To request leave, student, faculty or staff should contact the College's Equity Officer. The College will also work with students, faculty and staff to determine if other non-leave related assistance will facilitate the student, faculty or staff's ability to remain safe and maintain his or her work performance, such as, but not limited to, modifying work or class schedules, changing student, faculty or staff's location within the campus or workplace or location of a parking spot, changing phone numbers. The College will assist students, faculty and staff to enforce his or her protection order, if applicable.

F. CONFIDENTIALITY/PUBLIC RECORDS:

TCC recognizes and respects student, faculty and staff's right to privacy and the need for confidentiality and autonomy. TCC shall maintain the confidentiality of a student, faculty and staff's disclosure regarding violence to the extent permitted by law unless to do so would result in physical harm to any person and/or jeopardize safety within the workplace.

The College will maintain a separate and confidential record of student, faculty or staff's status as a victim of domestic violence, dating violence, or stalking to ensure that his or her rights and privileges of employment or enrollment are not impacted or compromised as a result of the violence.

The College shall make every effort to provide advance notice to the student, faculty or staff who disclosed information if the disclosure must be shared with other parties in order to maintain safety in the workplace or elsewhere.

G. FALSE COMPLAINTS:

Any person who knowingly files a false complaint of domestic violence, dating violence, or stalking will be in violation of this policy.

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H. DISCIPLINE:

The College shall investigate immediately and take disciplinary action, up to and including termination or expulsion, against any student, faculty or staff who threatens to commit or who commits workplace-related incidents of domestic violence, dating violence, or stalking. Students, faculty or staff are prohibited from utilizing any workplace resources, such as work time, phones, email, computers, fax machines or other means to threaten, harass, intimidate, or otherwise harm another person.

In cases in which any employee intentionally uses his or her job-related authority and/or intentionally uses workplace resources in order to negatively impact a victim of violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of violence, or protect an abuser from appropriate consequences for his behavior, said employee will be subject to corrective or disciplinary action, in accordance with existing statutes and regulations. If appropriate, law enforcement will be contacted, which may result in arrest, criminal charges, and/or prosecution.

A student, faculty or staff member who is subject to a protection or restraining order, or a named defendant in a criminal action as a result of a threat or act of domestic violence, dating violence, or stalking must disclose the existence of such criminal or civil action if the conditions of such actions interfere with the student, faculty or staff's ability to perform his or her job, impact another student, faculty or staff at the College, or specifically relate or name the College. Failure to disclose the existence of such criminal or civil actions in these circumstances will result in disciplinary action, up to and including termination from employment.

Any violation of this policy shall result in appropriate corrective and/or disciplinary action.

I. WORKPLACE SAFETY PLANS:

TCC will provide reasonable means and personnel to assist victimized employees in developing and implementing individualized domestic violence workplace safety plans, consistent with existing statutes and regulations.

Any student or staff member who obtains a temporary or permanent order of protection is encouraged to provide the relevant security personnel and supervisory personnel with a copy of the petition and court order. Additionally, the employee is encouraged to provide the relevant security personnel and supervisory personnel with the following information on the abuser: a photograph or physical description, description of the abuser's automobile and license plate number, and any other information the College needs for the security of the workplace.