



August 24, 2015

MEMORANDUM

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

Item Description

This item requests Board approval for updates to policies listed in 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.

Highlights of the Policy 03-01 changes are outlined below:

- Section A - The equal opportunity statement has been revised to include "pregnancy."
- Section C - Definitions were added and/or revised to correspond with Title IX requirements and VAWA Amendments to the Clery Act.
- Section D - Modifications, for clarity of process, were made to "Reporting, Investigation, and Resolution."
- College Personnel titles have been revised to reflect recent title changes within the organization.

Past Actions by the Board

The Board previously revised Policy 03-01 on March 16, 2015.

Funding/Financial Implications

None.

Staff Resource

Jim Murdaugh, Renae Tolson, Director, Business Process Improvement

Recommended Action

Approve updates to College policies.

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

<p>TITLE: Equal <u>Access</u>/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; 11/17/14; 03/16/2015; <u>8/24/15</u></p>	

A. EQUAL ACCESS/EQUAL OPPORTUNITY STATEMENT

Tallahassee Community College (TCC) does not discriminate against any person on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, sexual orientation, marital status, disability, pregnancy 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~~ Equity Officer and Title IX Coordinator 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 ~~material~~ ter. 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, sexual orientation, marital status, disability, pregnancy, 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. Retaliation is any adverse action taken against the person(s) who makes or supports a complaint of discrimination, sexual misconduct, or harassment.
3. Sexual Misconduct is defined as a range of behaviors including but is not limited to sexual violence, rape, sexual assault (which includes any kind of nonconsensual sexual contact), sexual harassment, ~~intimate partner violence, stalking, and 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 ~~H~~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 noneconsensual 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.~~

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 any one other than the one being exploited, and that behavior does not otherwise constitute one of the sexual misconduct offenses.

4. Unlawful ~~H~~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~~

Extended definitions and examples of terms listed above may be found in TCC's Glossary of Terms located on the TCC Equity and Civil Rights web page, and within Administrative Procedure AP03-01.

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. Student Complaints - Complaints of discrimination, retaliation, sexual misconduct, or unlawful harassment by and against students should be filed promptly with the Student Conduct and Community Standards Officer, Judicial Advisor or directly with the College Equity Officer and Title IX Coordinator.

Faculty or Staff Complaints - 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 with the College Equity Officer Equity Officer and Title IX Coordinator.

b. Administrators and supervisors Administrators, supervisors and Campus Security Authorities (CSA) 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(s) named above.

c. All complaints of discrimination and unlawful harassment received by the Student Conduct and Community Standards Officer, Judicial Officer, Human Resources Director

or College ~~Equity Officer~~Equity Officer and Title IX Coordinator 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~~Equity Officer and Title IX Coordinator is the official custodian of the log.

- d. The Student ~~Conduct and Community Standards Officer~~Judicial Advisor will submit all student complaints, including proposed resolution, to the College ~~Equity Officer~~Equity Officer and Title IX Coordinator for review, input and inclusion in the log on a monthly basis. The Human Resources Director will submit all employee complaints, including proposed resolution, to the College Equity Officer and Title IX Coordinator for review, input and inclusion in the log on a monthly basis.
- e. The Clery Committee, including but not limited to the Conduct and Community Standards Officer~~Student Judicial Advisor~~, Human Resources Director, College Police Department representative and College ~~Equity Officer~~Equity Officer and Title IX Coordinator, 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~~Equity Officer and Title IX Coordinator will work with the Student Conduct and Community Standards Officer, the Human Resources Director and the Tallahassee Community College Police Department to conduct~~complete~~ 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 (Human Resources Director, College ~~Equity Officer~~Equity Officer and Title IX Coordinator or designee) will follow College Policy, College Administrative Procedure AP03-01 and the College's Sexual Misconduct Guide in reviewing the complaint. The Human Resources Director will send the investigative report, including proposed resolution, to the College Equity Officer and Title IX Coordinator for review and input prior to the communication of findings and recommendations.~~submit findings for review at Step Four of the College's Grievance Procedure 06-16.~~
- c. For matters involving students, the Student ~~Conduct and Community Standards Officer~~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, including proposed resolution, to the College ~~Equity Officer~~Equity Officer and Title IX Coordinator for review and input ~~and approval~~ prior to sending the findings and recommendations to the Vice President of Student Affairs.

3. Resolution

- a. For matters involving employees, once the recommendation of the Human Resources Director is reviewed by the College Equity Officer and Title IX Coordinator, the complainant will be advised of the results of the investigation.~~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 Conduct and Community Standards Office~~Judicial Officer~~ is reviewed by the College Equity Officer~~Equity Officer and Title IX Coordinator~~, 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 an employee or student complaint is not satisfactory for the complainant, it may be appealed to the President (For employees that is Step Four of the College's Grievance Procedure 06-16). 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~~Equity Officer and Title IX Coordinator~~. 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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