

**SOUTH FLORIDA STATE COLLEGE
ADMINISTRATIVE PROCEDURES**

PROCEDURE NO. 5230

TITLE: DISCRIMINATION, HARASSMENT, AND/OR SEXUAL HARASSMENT
COMPLAINT PROCEDURE

BASED ON POLICY: 5.23 PROHIBITED DISCRIMINATION

OFFICE OF PRIMARY RESPONSIBILITY: VICE PRESIDENT FOR ADMINISTRATIVE
SERVICES/VICE PRESIDENT FOR
ACADEMIC AFFAIRS AND STUDENT
SERVICES

I. Purpose:

The purpose of this procedure is to specify the appropriate process for students, employees, applicants for admission or employment or third parties alleging discrimination or harassment based on race, color, religion, gender, national origin, ethnicity, age, disability, marital status, political affiliation, sexual orientation, genetic information, or pregnancy for filing a discrimination or harassment complaint.

Employee: This procedure does not apply to employee performance appraisals, unless it is alleged that the appraisal is based on factors other than the employee's performance.

Student: This procedure does not apply to complaints related to matters such as academic problems, academic grades, mistreatment by any college employee that is not related to discrimination, wrongful fee assessment, financial aid concerns, records and registration errors, and student employment of a general nature.

II. Definitions:

Employee: Throughout this procedure the term "employee" includes current employees and applicants for employment.

Student: Throughout this procedure, the term "student" includes current students and applicants for admission.

Complaint: The dissatisfaction that occurs when an employee believes that any condition of employment is unjust or inequitable based on discrimination or harassment or when a student believes that any condition of his or her educational experience is unjust or inequitable based on discrimination or harassment.

Complainant: An individual or group of individuals who file a complaint against another individual or group of individuals.

EA/EO (Equal Access/Equal Opportunity) Coordinator: Individual(s) appointed by the president to assist an employee or student in defining the specifics of an incident or complaint, facilitate the following procedures, and monitor the case through to its conclusion. The EA/EO coordinator does not represent the employee or student. Specific contact information for the EA/EO employee coordinator and the EA/EO student coordinator is provided below. In addition this information is prominently displayed throughout all the campuses and centers and can be found on the college's website (Title IX Sexual Harassment and Discrimination-page).

EA/EO Employee Coordinator
Director, Human Resources
600 West College Dr.
Avon Park, FL 33825
Phone 863-784-7336

EA/EO Student Coordinator
Dean, Student Services
600 West College Dr.
Avon Park, FL 33825
Phone 863-784-7104

Harassment: Consists of verbal or physical conduct on the basis of race, color, religion, gender, national origin, ethnicity, age, disability, marital status, political affiliation, sexual orientation, genetic information, or pregnancy that: (1) is intended to or is reasonably likely to embarrass, distress, agitate, disturb or trouble the person or designated group to whom it is directed or to create an intimidating, hostile or offensive educational or work environment; (2) has the purpose or effect of unreasonably interfering with the individual's work or school performance or participation; or (3) otherwise adversely affects an individual's employment or educational opportunities.

Harassment, as defined above, may include, but is not limited to, repeated remarks of a demeaning nature, implied or explicit threats, slurs, innuendoes or gestures, demeaning jokes, stories, pictures, objects or activities directed at recipient which reflect upon the recipient's race, color, religion, gender, national origin, ethnicity, age, disability, marital status, political affiliation, sexual orientation, genetic information, or pregnancy.

Sexual Harassment: A form of discrimination which is against the law and is against Board policy. The college will not tolerate sexual harassment activities by any of its students or employees. Sexual harassment is behavior based on sex which falls under one of the following categories:

- a. Harassment which culminates in a tangible employment or academic action such as discharge, demotion, undesirable reassignment, or lowered grading; or
- b. Harassment in which no adverse tangible employment or academic action is taken but which is sufficient to constructively alter an employee's working conditions or student's educational experience.

Respondent: An individual or group of individuals against whom a complaint is filed.

III. Guiding principles:

Retaliation

It is a violation of college policy to retaliate or take reprisal against any person who has filed a complaint or who has complained about discrimination, harassment or sexual harassment based on the fact that the employee raised an issue about discrimination, harassment or sexual harassment to his or her supervisor, or any supervisor or manager of the college, to any dean, vice president, or other administrator, to any other person, entity, or human rights agency.

False or malicious complaints

Any employee or student found to have acted dishonestly or maliciously in filing a complaint, or in their actions or witness statements during an official investigation, shall also become subject to possible disciplinary action.

IV. Procedure:

- A. The college will thoroughly investigate and resolve all appropriate complaints.
- B. The privacy of both the complainant and the respondent will be respected, consistent with the college's legal obligations under state and federal laws and with the necessity to investigate allegations of misconduct and take corrective action when this has occurred.
 1. **Employee:** During the investigation, the college reserves the right to reassign an employee or place an employee on paid leave.
 2. **Student:** During an investigation, the college reserves the right to reassign a student in accordance with the Student Code of Conduct.
- C. The EA/EO coordinators are responsible for investigation of all employee and student complaints.
 1. **Employee:** All communications, documents, and records, paper or electronic, pertinent to an employee complaint process shall be kept in files separate from human resource records.
 2. **Student:** All communications, documents, and records, paper or electronic, pertinent to a student complaint process shall be kept in files separate from student academic records.

D. Filing a complaint:

In the event that an employee or student believes that he/she has been the subject of discrimination, harassment or sexual harassment and cannot resolve the issue with the alleged party, that individual shall report his/her complaint to the appropriate EA/EO employee coordinator or the EA/EO student coordinator within sixty (60) working days of the alleged incident. Information on contacting the EA/EO coordinators is available on the college website and prominently displayed throughout college facilities.

1. Employee: In the event that the alleged party is the EA/EO coordinator, the employee should report his/her complaint to the vice president, administrative services. Contact information for the vice president, administrative services is available on the college website
2. Student: In the event that the alleged party is the EA/EO coordinator, the student should report his/her complaint to the vice president for academic affairs and student services. Contact information for the vice president for academic affairs and student services is available on the college website.

Any administrator or faculty who is informed of a complaint must refer the complainant to the appropriate EA/EO coordinator immediately. The EA/EO coordinator will describe the complaint process to the complainant and review information relative to the complaint. If a complainant cannot state a sufficient basis in fact or law to support a discrimination, harassment or sexual harassment claim, the EA/EO coordinator shall assist the complainant with selecting a more appropriate internal means of resolving the specific complaint.

Additionally, any administrator or faculty who has knowledge of a complaint must refer the complainant to the appropriate EA/EO coordinator. The college has an obligation under law to investigate all reports of discrimination, harassment and/or sexual harassment, whether or not a complaint has been filed by the victim.

E. Investigation:

1. Informal

The EA/EO coordinator will attempt to resolve the allegation informally by meeting with both parties, either individually or together. The informal resolution process is an attempt to resolve complaints quickly and to the satisfaction of all parties, while protecting confidentiality to the extent authorized by law. The aim of the informal dispute resolution is not to determine if there was intent to discriminate or harass, or actual discrimination, harassment and/or sexual harassment, but to ensure that

the alleged discriminatory and/or harassing conduct ceases and the matter is resolved promptly at the lowest possible level. Both parties must agree to an informal resolution process. The EA/EO coordinator will complete the informal investigation within thirty (30) working days.

If the complaint is resolved by mutual agreement of the parties, the matter will be considered settled. The EA/EO coordinator will file a written report outlining the result of the informal complaint to both parties and the president within fifteen (15) working days of final resolution of the informal complaint.

2. Formal

If the complaint cannot be resolved informally, the complainant shall file a formal, written complaint with the EA/EO coordinator.

- a. All complaints should be in writing. Written complaints may be submitted in the form of a letter or memo. The complaint should include the following:
 - Complainant's name and signature.
 - Description of the act or acts complained of.
 - Identity of the person or persons involved in the complaint (the "respondents").
 - Date(s) on which alleged acts occurred.
 - Names and contact information of potential witnesses.
 - Effect the alleged acts have had on the complainant.
 - Complainant's desired resolution.
 - Any other information the complainant believes is relevant.
- b. Written complaints must be filed within ten (10) working days after receipt of the informal report. Upon receipt of the written complaint, the following will occur:
- c. The EA/EO coordinator will review the formal complaint process with the complainant and provide a copy of the applicable college policy and procedure.
- d. The EA/EO coordinator will notify the president and the appropriate department administrator of the formal complaint.
- e. The EA/EO coordinator will conduct a prompt and thorough investigation by reviewing documents and interviewing witnesses.

- f. Any persons thought to have information or evidence relevant to the complaint shall be interviewed and such interviews shall be appropriately documented.
- g. If determined necessary, an appropriate senior-level administrator will conduct interviews jointly with the EA/EO coordinator.
- h. While interviewing witnesses, the EA/EO coordinator will not disclose information gathered from witness interviews to anyone other than the complainant and respondent. Both the complainant and the respondent have the right to know the statements made and the identification of persons making statements.
- i. The EA/EO coordinator may remind a reluctant witness that it is his or her duty to cooperate with the investigation.
- j. The EA/EO coordinator may secure any information that was given during the informal process.
- k. Other acceptable methods for gathering information include, but are not limited to, visual inspection of offensive materials and follow-up interviews as necessary.
- l. In determining whether the alleged conduct constitutes discrimination, harassment and/or sexual harassment, the totality of the circumstances, the nature of the conduct, frequencies, and the context in which the alleged conduct occurred will be investigated.
- m. The EA/EO coordinator will provide a copy of the written complaint to the respondent.
- n. The EA/EO coordinator will file a written report with the appropriate vice president and the president within thirty (30) working days after the formal complaint has been filed. The report shall include (1) an outline of the basis of the complaint (2) the names of the persons involved, (3) a description of the facts of the case that were in dispute, (4) a description of the findings of the investigation and (5) the final resolution of the investigation.
- o. The EA/EO coordinator will meet individually with the complainant and respondent to discuss the findings and provide a written summary of the overall findings. The college will take appropriate action to ensure nondiscrimination.

F. Appeal/Final resolution of complaint

1. Right to appeal

Both the complainant and the respondent have the right to appeal the equity officer's findings. The appealing party may petition the president for review of a decision by the EA/EO coordinator within five (5) working days of the date of the decision. The written petition shall state the facts of the case, a summary of the findings of the equity officer and the appealing party's reason for petitioning the president for review. The president's action will be limited to review of the basis for the EA/EO coordinator's disposition and will not necessarily involve a new factual investigation. Notwithstanding the above, the president may, but is not required to, direct that further facts be gathered, direct a group (no more than three) to review the facts and make a recommendation to the president, or direct that additional remedial action be taken.

The president will act on the matter by letter, memo, or directive with notification to the complainant, the respondent and other appropriate persons within fifteen (15) working days of the receipt of the petition of appeal. The decision of the president shall be final.

2. Decline to appeal

In cases where no appeal is filed within five (5) working days of receipt of the summary report and findings of the formal investigation, the determination of the EA/EO coordinator will be final.

3. Withdrawal of complaints

Once filed, the college has an obligation to investigate complaints raising claims of discrimination, harassment or sexual harassment. However, in appropriate circumstances, and at the discretion and judgment of the president, the college may agree upon a written and signed request to do so by the complainant, to withdraw a complaint. Both the complainant and the respondent will be notified of the withdrawal.

HISTORY: Adopted 8/28/17

Adopted: 8/28/17

Reviewed:

Revised: